

## CHAPTER 780. CRIMINAL PROCEDURE

### UNIFORM CRIMINAL EXTRADITION ACT

#### Act 144 of 1937

AN ACT relative to and to make uniform the procedure on interstate extradition; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

**History:** 1937, Act 144, Eff. Oct. 29, 1937.

*The People of the State of Michigan enact:*

#### **780.1 Uniform criminal extradition act; definitions.**

Sec. 1. Definitions. Where appearing in this act, the term “governor” includes any person performing the functions of governor by authority of the law of this state. The term “executive authority” includes the governor, and any person performing the functions of governor in a state other than this state. The term “state,” referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.1.

**Compiler's note:** The catchlines following the act section numbers were incorporated as part of the act as enacted.

#### **780.2 Fugitives from justice; duty of governor.**

Sec. 2. Fugitives from justice; duty of governor. Subject to the provisions of this act, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.2.

#### **780.3 Form of demand.**

Sec. 3. Form of demand. No demand for extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing, accompanied by the following papers:

- (1) Governor's requisition under the seal of the state;
- (2) Prosecutor's application for requisition for the return of a person charged with crime, wherein shall be stated:

- (a) The name of the person so charged;
- (b) The nature of the crime;
- (c) The approximate time, place and circumstances of its commission;
- (d) That the accused was present in demanding state at the time of commission of alleged crime;
- (e) That he thereafter fled from the state;
- (f) The state in which he is believed to be, including the location of the accused therein, at the time the application is made; certifying that, in the opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the accused to the demanding state for trial, and that the proceeding is not instituted to enforce a private claim;

(3) Verification by affidavit of said application, which shall be accompanied by certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, and the warrant issued thereupon, stating the offense with which the accused is charged, or of the judgment of conviction or of a sentence imposed in execution thereof, together with a statement by executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. Affidavits or documents as the prosecutor may deem proper may be submitted with such application;

(4) Executive warrant, under the seal of the state, authorizing agent, therein named, to receive the person demanded;

(5) The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment or conviction or sentence must be authenticated by the executive authority making the demand.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.3.

#### **780.3a Extradition; persons not present in demanding state at time of commission of crime.**

Sec. 3a. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom, and the requirements contained in subdivisions (d) and (e) of section 3 of this act shall not apply to such cases.

**History:** Add. 1939, Act 81, Eff. Sept. 29, 1939;—Am. 1947, Act 143, Imd. Eff. May 29, 1947;—CL 1948, 780.3a.

#### **780.4 Investigation by governor.**

Sec. 4. Governor may investigate case. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.4.

#### **780.5 Extradition; persons imprisoned or awaiting trial in another state or who have left demanding state under compulsion.**

Sec. 5. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 22 of this act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.5.

#### **780.6 Governor's warrant; issuance; recitation of facts; revocation of bail.**

Sec. 6. If the governor decides that the demand should be complied with, he or she shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person who the governor determines is fit to entrust with the execution of the warrant. The warrant shall substantially recite the facts necessary to the validity of its issuance. If the person was released on bail, the court shall immediately revoke bail and shall not release the person on bail but shall detain the person subject only to habeas corpus review.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.6;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

#### **780.7 Governor's warrant; execution, manner and place.**

Sec. 7. Manner and place of execution. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.7.

#### **780.8 Arresting officer; authority.**

Sec. 8. Authority of arresting officer. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.8.

### **780.9 Rights of accused persons; writ of habeas corpus, application.**

Sec. 9. Rights of accused person; application for writ of habeas corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.9.

### **780.10 Violation of section; misdemeanor, penalty.**

Sec. 10. Penalty for non-compliance with preceding section. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined, not more than 1,000 dollars or be imprisoned not more than 6 months or both.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.10.

### **780.11 Confinement in jail; necessary circumstances.**

Sec. 11. Confinement in jail when necessary. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping: Provided, however, That such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.11.

### **780.12 Arrest prior to requisition.**

Sec. 12. Arrest prior to requisition. Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under section 3a, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 3a, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1939, Act 81, Eff. Sept. 29, 1939;—CL 1948, 780.12.

### **780.13 Arrest without warrant.**

Sec. 13. Arrest without a warrant. The arrest of a person may be lawfully made also by any peace officer without a warrant upon reasonable information that the accused stands charged in the courts of a state with a

crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.13.

#### **780.14 Commitment to await requisition; bail.**

Sec. 14. Commitment to await requisition; bail. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 3a, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1939, Act 81, Eff. Sept. 29, 1939;—CL 1948, 780.14.

#### **780.15 Bail; type of cases; condition of bond.**

Sec. 15. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death, by life imprisonment, or by imprisonment for 20 years or more under the laws of the state in which it was committed or is for escaping from custody or confinement, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in an amount that, after reviewing the person's criminal history, the judge or magistrate considers proper, conditioned for the person's appearance before the court at a time specified in the bond, and for the person's surrender, to be arrested upon the warrant of the governor of this state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.15;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

#### **780.16 Discharge or recommitment of accused; additional periods; limitation.**

Sec. 16. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge the accused or may recommit the accused for additional periods not to exceed a total extension of 60 days, or a judge or magistrate may again take bail for the accused's appearance and surrender, as provided in section 15, but within a period not to exceed 60 days after the date of any new bond.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.16;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

#### **780.17 Forfeiture of bail.**

Sec. 17. Forfeiture of bail. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.17.

#### **780.18 Persons under criminal prosecution in state; applicability of restrictions on commitment.**

Sec. 18. If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor may surrender the person on demand of the executive authority of another state or hold the person until he or she has been tried and discharged or convicted and punished in this state. If a criminal prosecution has been instituted under the laws of this state against a person charged under section 13, the restrictions on the length of commitment specified in sections 14 and 16 are not applicable during the period that the criminal prosecution is pending in this state.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.18;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

#### **780.19 Guilt or innocence of accused when inquired into.**

Sec. 19. Guilt or innocence of the accused, when inquired into. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.19.

#### **780.20 Governor's warrant; recall or issuance of another.**

Sec. 20. Governor may recall warrant or issue alias. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.20.

#### **780.21 Fugitives from state; duty of governor.**

Sec. 21. Fugitives from this state; duty of governor. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.21.

#### **780.22 Application for issuance of requisition; contents.**

Sec. 22. Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he or they shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and 1 of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.22.

#### **780.23 Costs and expenses.**

Sec. 23. In all extradition cases the expenses therefor shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and all other necessary and reasonable expenses in returning such prisoner.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1947, Act 247, Imd. Eff. June 20, 1947;—CL 1948, 780.23.

#### **780.23a Extradition costs; payment.**

Sec. 23a. The court may order an individual who is extradited to this state for committing a crime and who is convicted of a crime to pay the actual and reasonable costs of that extradition, including, but not limited to, all of the following:

(a) Transportation costs.



(b) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the individual to this state.

**History:** Add. 2002, Act 584, Eff. Jan. 1, 2003.

#### **780.24 Immunity from service of process in certain civil actions.**

Sec. 24. Immunity from service of process in certain civil actions. A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.24.

#### **780.25 Written waiver of extradition proceedings.**

Sec. 25. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 6 and 7 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing that states that he or she consents to return to the demanding state. However, before the waiver is executed or subscribed by the person, the judge shall inform the person of his or her rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 9.

When a person's consent has been duly executed, it shall promptly be forwarded to and filed in the office of the governor of this state. The judge shall direct the officer having the person in custody to promptly deliver the person to the accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to that agent or agents a copy of the person's consent.

If a waiver is executed, the judge shall remand the person to custody without bail. The order shall direct the officer having the person in custody to deliver the person to the duly authorized agent of the demanding state together with a copy of the order and the waiver.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.25;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

#### **780.25a Delivering individual to demanding state without governor's warrant.**

Sec. 25a. Notwithstanding section 3, a law enforcement agency in this state holding an individual who is alleged to have broken the terms of his or her probation, parole, bail, or other release in the demanding state shall immediately deliver the individual to the authorized agent of the demanding state without the requirement of a governor's warrant if all of the following have occurred:

(a) The individual has signed a prior waiver of extradition as a term of his or her current probation, parole, bail, or other release in the demanding state.

(b) The law enforcement agency holding the individual has received a copy of the prior waiver of extradition signed by the individual and confirmed by the demanding agency.

(c) The law enforcement agency has received photographs, fingerprints, or other evidence that properly identify the individual who signed the waiver.

**History:** Add. 1994, Act 380, Imd. Eff. Dec. 27, 1994.

#### **780.26 Non-waiver by state.**

Sec. 26. Non-waiver by this state. Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.26.

#### **780.27 No right of asylum.**

Sec. 27. No right of asylum. No immunity from other criminal prosecutions while in this state. After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.27.

**780.28 Interpretation of act.**

Sec. 28. Interpretation. The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.28.

**780.31 Uniform criminal extradition act; short title.**

Sec. 31. This act may be cited as the “uniform criminal extradition act”.

**History:** 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.31.

**UNIFORM RENDITION OF ACCUSED PERSONS ACT**  
**Act 281 of 1968**

AN ACT to enact the uniform rendition of accused persons act.

**History:** 1968, Act 281, Eff. Nov. 15, 1968.

*The People of the State of Michigan enact:*

**780.41 Uniform rendition of accused persons act; short title.**

Sec. 1. This act may be cited as the “uniform rendition of accused persons act”.

**History:** 1968, Act 281, Eff. Nov. 15, 1968.

**780.42 Arrest of accused person illegally in state; warrant, procedure.**

Sec. 2. (1) If a person who has been charged with crime in another state and released from custody prior to final judgment, including the final disposition of any appeal, is alleged to have violated the terms and conditions of his release, and is present in this state, a designated agent of the court, judge or magistrate which authorized the release may request the issuance of a warrant for the arrest of the person and an order authorizing his return to the demanding court, judge or magistrate. Before the warrant is issued, the designated agent shall file, with a judicial officer of this state having authority under the laws of this state to issue warrants for the arrest of persons charged with crime, the following documents:

(a) An affidavit stating the name and whereabouts of the person whose removal is sought, the crime with which the person was charged, the time and place of the crime charged, and the status of the proceedings against him.

(b) A certified copy of the order or other document specifying the terms and conditions under which the person was released from custody.

(c) A certified copy of an order of the demanding court, judge or magistrate stating the manner in which the terms and the conditions of the release have been violated and designating the affiant its agent for seeking removal of the person.

(2) Upon initially determining that the affiant is a designated agent of the demanding court, judge or magistrate, and that there is probable cause for believing that the person whose removal is sought has violated the terms or conditions of his release, the judicial officer shall issue a warrant to a law enforcement officer of this state for the person's arrest.

(3) The judicial officer shall notify the prosecuting attorney of his action and shall direct him to investigate the case to ascertain the validity of the affidavits and documents required by subsection (1) and the identity and authority of the affiant.

**History:** 1968, Act 281, Eff. Nov. 15, 1968.

**780.43 Hearing; right to counsel; waiver of hearing; condition of release.**

Sec. 3. (1) The person whose removal is sought shall be brought before the judicial officer immediately upon arrest pursuant to the warrant; whereupon the judicial officer shall set a time and place for hearing, and shall advise the person of his right to have the assistance of counsel, to confront the witnesses against him, and to produce evidence in his own behalf at the hearing.

(2) The person whose removal is sought may at this time in writing waive the hearing and agree to be returned to the demanding court, judge or magistrate. If a waiver is executed, the judicial officer shall issue an order pursuant to section 3.

(3) The judicial officer may impose conditions of release authorized by the laws of this state which will reasonably assure the appearance at the hearing of the person whose removal is sought.

**History:** 1968, Act 281, Eff. Nov. 15, 1968.

**780.44 Hearing; report of investigation; order authorizing return of accused.**

Sec. 4. The prosecuting attorney shall appear at the hearing and report to the judicial officer the results of his investigation. If the judicial officer finds that the affiant is a designated agent of the demanding court, judge or magistrate and that the person whose removal is sought was released from custody by the demanding court, judge or magistrate, and that the person has violated the terms or conditions of his release, the judicial officer shall issue an order authorizing the return of the person to the custody of the demanding court, judge or magistrate forthwith.

**History:** 1968, Act 281, Eff. Nov. 15, 1968.



**780.45 Construction of act.**

Sec. 5. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**History:** 1968, Act 281, Eff. Nov. 15, 1968.

**JURISDICTION OVER GREAT LAKES WATERS**  
**Act 191 of 1965**

AN ACT to grant cities and incorporated villages jurisdiction as to Great Lakes waters or connecting waters adjoining their boundaries.

**History:** 1965, Act 191, Imd. Eff. July 15, 1965.

*The People of the State of Michigan enact:*

**780.51 Municipalities; jurisdiction.**

Sec. 1. A city or incorporated village, having a boundary running to the shoreline of any of the Great Lakes or connecting waters, through its peace officers, with or without a pertinent ordinance, may exercise concurrent jurisdiction as to such waters to enforce any criminal law of this state applicable to the conduct of persons in, on or over such waters which extend 1/2 mile lakeward from such boundary, but not beyond any interstate or international boundary.

**History:** 1965, Act 191, Imd. Eff. July 15, 1965.

**780.52 Construction of act.**

Sec. 2. This act shall not be construed as granting any authority to regulate or control the erection, maintenance or destruction of any structure in, on or over such waters as may be covered by state law, or to grant a power to alter any federal or state law, rule or regulation pertaining to navigation, hunting or fishing.

**History:** 1965, Act 191, Imd. Eff. July 15, 1965.

**BAIL FOR TRAFFIC OFFENSES OR MISDEMEANORS**  
**Act 257 of 1966**

AN ACT to provide for bail of persons arrested for or accused of criminal offenses involving traffic offenses or misdemeanors; by prescribing the conditions under which security is required; by prescribing the kind and amount of security required; by prescribing the conditions under which security may be forfeited and the manner of forfeiture; by prescribing penalties for violations; and to repeal certain acts and parts of acts.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

*The People of the State of Michigan enact:*

**780.61 Bail for traffic offenses or misdemeanors; definitions.**

Sec. 1. As used in this act:

- (a) "Security" means that which is required to be pledged to insure the payment of bail.
- (b) "Surety" means one who executes a bail bond and binds himself to pay the bail if the person in custody fails to comply with all conditions of the bail bond.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

**780.62 Release upon own recognizance; failure to appear, misdemeanor; forfeiture.**

Sec. 2. When from all the circumstances involving traffic offenses in violation of state law, township traffic ordinances or municipal traffic ordinances or any misdemeanor offense, the court is of the opinion that the accused will appear as required either before or after conviction the accused may be released on his own recognizance. A failure to appear as required by such recognizance is a misdemeanor and any obligated sum fixed in the recognizance shall be forfeited and collected in accordance with section 6.

This section shall be liberally construed to effectuate the purpose of relying upon criminal sanctions instead of financial loss to assure the appearance of the accused.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

**780.63 Failure to appear; arrest.**

Sec. 3. Upon failure to comply with any condition of a bail bond or recognizance the court having jurisdiction at the time of such failure, in addition to any other action provided by law, may issue a warrant for the arrest of the person at liberty on bail or his own recognizance.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

**780.64 Amount of bail; surrender by defendant of operator's or chauffeur's license as security; receipt; expiration date; extension; written notice; return of license.**

Sec. 4. (1) The amount of bail shall be:

- (a) Sufficient to assure compliance with the conditions set forth in the bail bond.
  - (b) Not oppressive.
  - (c) Commensurate with the nature of the offense charged.
  - (d) Considerate of the past criminal acts and conduct of the defendant.
  - (e) Considerate of the financial ability of the accused.
  - (f) Uniform whether the bail bond be executed by the person for whom bail has been set or by a surety.
- (2) If a person is charged with an offense punishable by a fine only, the amount of the bail shall not exceed double the amount of the maximum penalty.
- (3) If a person has been convicted of an offense and only a fine has been imposed, the amount of the bail shall not exceed double the amount of the fine.
- (4) If a person is arrested for an ordinance violation or a misdemeanor punishable by imprisonment for not more than 1 year or a fine, or both, and if the defendant's operator's or chauffeur's license is not expired, suspended, revoked, or canceled, then the court may require the defendant, in place of other security for the defendant's appearance in court for trial or sentencing or, in addition, to release of the defendant on personal recognizance, to surrender to the court his or her operator's or chauffeur's license. The court shall issue to the defendant a receipt for the license as provided in section 311a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.311a of the Michigan Compiled Laws. If the trial date is set at the arraignment, the court shall specify on the receipt the date on which the defendant is required to appear for trial. If a trial date is not set at the arraignment, the court shall specify on the receipt a date on which the receipt expires. By written notice, which shall instruct a person who has surrendered a license as security under this subsection to attach the notice to the receipt issued under this subsection, the court may extend the

expiration date of the receipt, as needed, to secure the defendant's appearance for trial and sentencing. Upon its attachment to the receipt, the written notice shall be considered a part of the receipt for purposes of determining the expiration date. At the conclusion of the trial or imposition of sentence, as applicable, the court shall return the license to the defendant unless other disposition of the license is authorized by law.

**History:** 1966, Act 257, Eff. Mar. 10, 1967;—Am. 1969, Act 221, Imd. Eff. Aug. 6, 1969;—Am. 1983, Act 57, Eff. Mar. 29, 1984.

#### **780.65 Increase or reduction in amount of bail; notices; alteration of conditions of bond.**

Sec. 5. (1) Upon application by the state or a local unit of government or the defendant the court before which the proceeding is pending may increase or reduce the amount of bail or may alter the conditions of the bail bond.

(2) Reasonable notice of the application by the defendant shall be given to the state.

(3) Reasonable notice of the application by the state or local unit of government shall be given to the defendant, except as provided in subsection (4).

(4) Upon verified application by the state or local unit of government stating facts or circumstances constituting a breach or a threatened breach of any of the conditions of the bail bond the court may issue a warrant commanding any peace officer to bring the defendant without unnecessary delay before the court for a hearing on the matters set forth in the application. At the conclusion of the hearing the court may enter an order authorized by subsection (1).

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

#### **780.66 Bail deposit; moneys; minimum amount; procedure.**

Sec. 6. (1) The person for whom bail has been set shall execute the bail bond and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10% of the bail but at least \$10.00. A defendant who personally makes the deposit shall be notified that upon the defendant's conviction the defendant's deposit may be used to collect a fine, costs, restitution, assessment, or other payment as provided in subsection (8).

(2) Upon depositing this sum, the person shall be released from custody subject to the conditions of the bail bond.

(3) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction, the latter court shall continue the original bail in that court subject to section 5.

(4) After conviction, the court may order that the original bail stand as bail pending appeal or increase or reduce bail.

(5) After the entry of an order by the trial court allowing bail pending appeal, either party may apply to the reviewing court having jurisdiction or to a justice thereof sitting in vacation for an order increasing or decreasing the amount of bail or allowing bail pending appeal.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause, the clerk of the court shall return to the accused 90% of the sum that had been deposited, except as provided in subsection (8), and shall retain as bail bond costs 10% of the amount deposited, except that if the accused has not been convicted of the charge, the entire sum deposited shall be returned to the accused.

(7) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed promptly by the court to the accused at his or her last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the accused is impossible and without his fault, the court shall enter judgment for the state or local unit of government against the accused for the amount of the bail and costs of the court proceedings. The deposit made in accordance with subsection (1) shall be applied to the payment of costs. If any amount of the deposit remains after the payment of costs, it shall be applied to payment of the judgment and transferred to the treasury of the unit of government in which the court is located. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(8) If the court ordered a defendant who has made a cash deposit in accordance with subsection (1) to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of the cash deposit. If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

**780.67 Bail bond in lieu of bail deposit; security required; procedure.**

Sec. 7. (1) In lieu of the bail deposit provided for in section 6, a person for whom bail has been set may execute the bail bond with or without sureties. The bond may be secured by 1 or more of the following:

(a) Depositing with the clerk of the court an amount equal to the required bail in cash or stocks or bonds in which trustees are authorized to invest trust funds under the laws of this state. A defendant who personally makes the cash deposit shall be notified that upon the defendant's conviction the defendant's cash deposit may be used to collect a fine, costs, restitution, assessment, or other payment as provided in subsection (7).

(b) Real estate situated in this state with unencumbered equity not exempt and owned by the accused or sureties worth double the amount of bail set in the bond.

(2) If the bail bond is secured by cash or stocks and bonds, the accused or sureties shall file with the bond a sworn schedule containing all of the following:

(a) A list of the stocks or bonds deposited, describing each in sufficient detail that it may be identified.

(b) The market value of each stock or bond.

(c) The total market value of the stocks or bonds listed.

(d) A statement that the affiant is the sole owner of the stocks or bonds listed and that they are not exempt from execution.

(e) A statement that the stocks or bonds have not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that the stocks or bonds are security for the appearance of the accused in accordance with the conditions of the bail bond.

(3) If the bail bond is secured by real estate, the accused or sureties shall file with the bond a sworn schedule containing all of the following:

(a) A legal description of the real estate.

(b) A description of any encumbrance on the real estate, including the amount and the holder of each encumbrance.

(c) The market value of the unencumbered equity owned by the affiant.

(d) A statement that the affiant is the sole owner of the unencumbered equity and that it is not exempt from execution.

(e) A statement that the real estate has not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that the real estate is security for the appearance of the accused in accordance with the conditions of the bail bond.

(4) The sworn schedule constitutes a material part of the bail bond. The affiant commits perjury if in the sworn schedule the affiant makes a false statement he or she does not believe to be true. The affiant shall be prosecuted and punished accordingly or may be punished for contempt.

(5) A certified copy of the bail bond and schedule of real estate shall be filed immediately by the court in the office of the register of deeds of the county in which the real estate is situated. The state shall have a lien on the real estate from the time copies are filed in the office of the register of deeds. The register of deeds shall enter, index and record the bail bonds and schedules without requiring any advance fee. The fee shall be taxed as costs in the proceeding and paid out of the costs when collected.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from his or her obligations in the cause, the clerk of the court shall return to the accused or his or her sureties the deposit of any cash, stocks, or bonds, except as provided in subsection (7). If the bail bond was secured by real estate, the clerk of the court shall promptly notify in writing the register of deeds and the lien of the bail bond on the real estate shall be discharged.

(7) If the court ordered a defendant who has made a cash deposit according to subsection (1) to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of the cash deposit. If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

(8) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed promptly by the clerk of the court to the accused and his or her sureties at their last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within

that period satisfy the court that appearance and surrender by the accused is impossible and without his or her fault, the court shall enter judgment for the state or local unit of government against the accused and his or her sureties for the amount of the bail and costs of the proceedings.

(9) When judgment is entered in favor of the state or local unit of government on any bail bond the attorney for the local unit of government, the prosecuting attorney or the attorney general shall have execution issued on the judgment promptly and shall deliver the execution to the sheriff to be executed by levy on the cash, stocks or bonds deposited with the clerk of the court or the real estate described in the bail bond schedule. The cash shall be used to satisfy the judgment and costs and shall be paid into the treasury of the unit of government in which the court is located. The stocks, bonds, or real estate shall be sold in the same manner as in execution sales in civil actions. The proceeds of the sale shall be used to satisfy all court costs and prior encumbrances, if any, and a sufficient amount to satisfy the judgment shall be paid into the treasury of the unit of government in which the court is located. The balance shall be returned to the owner. The real estate may be redeemed in the same manner as real estate may be redeemed after judicial or execution sales in civil actions.

(10) A stock, bond, or real estate shall not be used or accepted as bail bond security in this state more than once in any 12-month period.

**History:** 1966, Act 257, Eff. Mar. 10, 1967;—Am. 1993, Act 347, Eff. May 1, 1994.

#### **780.68 Bail taken by peace officer; release of offender; receipt; deposit with clerk of court.**

Sec. 8. When bail has been set by a judicial officer for a particular offense or offender, any sheriff or other peace officer may take bail in accordance with the provisions of section 6 or 7 and release the offender to appear in accordance with the conditions of the bail bond, the notice to appear or the summons. The officer shall give a receipt to the offender for the bail so taken and within a reasonable time deposit such bail with the clerk of the court having jurisdiction of the offense.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

#### **780.69 Conditions of bail bonds before conviction.**

Sec. 9. (1) If a person is admitted to bail before conviction the conditions of the bail bond shall be that he will:

(a) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court.

(b) Submit himself to the orders and process of the court.

(c) Not depart this state without leave.

(2) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will:

(a) Duly prosecute his appeal.

(b) Appear at such time and place as the court may direct.

(c) Not depart this state without leave of the court.

(d) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

#### **780.70 Bail on new trial; increase or reduction pending on trial.**

Sec. 10. If the judgment of conviction is reversed and the cause remanded for a new trial the trial court may order that the bail stand pending such trial, or reduce or increase bail.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

#### **780.71 Notice of address change.**

Sec. 11. A person who has been admitted to bail shall give written notice to the clerk of the court before which the proceeding is pending of any change in his address within 24 hours after the change.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

#### **780.72 Persons prohibited from furnishing bail security.**

Sec. 12. No attorney-at-law practicing in this state and no official authorized to admit another to bail or to accept bail shall furnish any part of any security for bail in any criminal action or any proceeding nor shall any such person act as surety for any accused admitted to bail.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

#### **780.73 Credit for incarceration on bailable offense; limitation.**



Sec. 13. Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of \$5.00 for each day so incarcerated prior to conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine.

**History:** 1966, Act 257, Eff. Mar. 10, 1967.

**UNIFORM ACT ON FRESH PURSUIT**  
**Act 189 of 1937**

AN ACT to make uniform the law on fresh pursuit and authorizing this state to cooperate with other states therein.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937.

*The People of the State of Michigan enact:*

**780.101 Uniform act on fresh pursuit; arrest by officer from other state.**

Sec. 1. Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.101.

**780.102 Uniform act on fresh pursuit; procedure.**

Sec. 2. If an arrest is made in this state by an officer of another state in accordance with the provisions of section 1 of this act, he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.102.

**780.103 Section one construed.**

Sec. 3. Section 1 of this act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.103.

**780.104 State; construction of term.**

Sec. 4. For the purpose of this act the word “state” shall include the District of Columbia.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.104.

**780.105 Fresh pursuit; definition.**

Sec. 5. The term “fresh pursuit” as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.105.

**780.106 Certified copies of act; executive department of states.**

Sec. 6. Upon the passage and approval by the governor of this act it shall be the duty of the secretary of state to certify a copy of this act to the executive department of each of the states of the United States.

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.106.

**780.108 Uniform act on fresh pursuit; short title.**

Sec. 8. This act may be cited as the “uniform act on fresh pursuit.”

**History:** 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.108.

**UNIFORM RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS ACT**  
**Act 161 of 1967**

AN ACT to provide for the interstate use of prisoners as witnesses in criminal proceedings.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

*The People of the State of Michigan enact:*

**780.111 Uniform rendition of prisoners as witnesses in criminal proceedings act; short title.**

Sec. 1. This act shall be known and may be cited as the “uniform rendition of prisoners as witnesses in criminal proceedings act”.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.112 Uniform rendition of prisoners as witnesses in criminal proceedings act; definitions.**

Sec. 2. As used in this act:

(a) “Witness” means a person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

(b) “Penal institutions” includes a jail, prison, penitentiary, house of correction or other place of penal detention.

(c) “State” includes any state of the United States, the district of Columbia, the commonwealth of Puerto Rico, and any territory of the United States.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.113 Request of foreign court; certificate of state judge having jurisdiction over prisoner, contents; notice; hearing.**

Sec. 3. A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this state, may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in this state may be a material witness in the proceeding, investigation or action, and (3) that his presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the attorney general, the judge in this state shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before him at the hearing.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.114 Orders directing witness to attend and testify; contents; production of witness.**

Sec. 4. If at the hearing the judge determines (1) that the witness may be material and necessary, (2) that his attending and testifying are not adverse to the interests of this state or to the health or legal rights of the witness, (3) that the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order, and (4) that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass, the judge shall issue an order, with a copy of the certificate attached, (a) directing the witness to attend and testify, (b) directing the person having custody of the witness to produce him, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and (c) prescribing such conditions as the judge shall determine.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.115 Orders; contents; custodial safeguards; expenses; time effective.**

Sec. 5. The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness, and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.116 Inapplicability of act.**

Sec. 6. This act does not apply to any person in this state confined as insane or mentally ill or as a defective delinquent.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.117 Request for witnesses confined in foreign state; certificate; contents; foreign court having jurisdiction over prisoner, presentment of certificate.**

Sec. 7. If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action, and (3) that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.118 Order of compliance with terms and conditions of foreign judge.**

Sec. 8. The judge of the court in this state may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.119 Immunity of witness; arrest or service of process.**

Sec. 9. If a witness from another state comes into or passes through this state under an order directing him to attend and testify in this or another state, he shall not while in this state pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this state under the order.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**780.120 Construction of act.**

Sec. 10. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**History:** 1967, Act 161, Imd. Eff. June 30, 1967.

**DISPOSITION OF UNTRIED CHARGES AGAINST INMATES OF PENAL INSTITUTIONS**  
**Act 177 of 1957**

AN ACT to dispose of untried warrants, indictments, informations or complaints against inmates of penal institutions of this state.

**History:** 1957, Act 177, Eff. Sept. 27, 1957.

*The People of the State of Michigan enact:*

**780.131 Notice of untried warrant, indictment, information, or complaint; notice of place of imprisonment; request for final disposition; statement; delivery by certified mail; applicability of section.**

Sec. 1. (1) Whenever the department of corrections receives notice that there is pending in this state any untried warrant, indictment, information, or complaint setting forth against any inmate of a correctional facility of this state a criminal offense for which a prison sentence might be imposed upon conviction, the inmate shall be brought to trial within 180 days after the department of corrections causes to be delivered to the prosecuting attorney of the county in which the warrant, indictment, information, or complaint is pending written notice of the place of imprisonment of the inmate and a request for final disposition of the warrant, indictment, information, or complaint. The request shall be accompanied by a statement setting forth the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time or disciplinary credits earned, the time of parole eligibility of the prisoner, and any decisions of the parole board relating to the prisoner. The written notice and statement shall be delivered by certified mail.

(2) This section does not apply to a warrant, indictment, information, or complaint arising from either of the following:

(a) A criminal offense committed by an inmate of a state correctional facility while incarcerated in the correctional facility.

(b) A criminal offense committed by an inmate of a state correctional facility after the inmate has escaped from the correctional facility and before he or she has been returned to the custody of the department of corrections.

**History:** 1957, Act 177, Eff. Sept. 27, 1957;—Am. 1988, Act 400, Eff. Mar. 30, 1989.

**780.132 Request; notice to prisoners.**

Sec. 2. The department of corrections shall notify each prisoner of any request forwarded under the provisions of section 1 of this act.

**History:** 1957, Act 177, Eff. Sept. 27, 1957.

**780.133 Failure to prosecute; dismissal with prejudice.**

Sec. 3. In the event that, within the time limitation set forth in section 1 of this act, action is not commenced on the matter for which request for disposition was made, no court of this state shall any longer have jurisdiction thereof, nor shall the untried warrant, indictment, information or complaint be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

**History:** 1957, Act 177, Eff. Sept. 27, 1957.

## REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

### Act 8 of 1952

AN ACT relative to the extradition of persons charged with failure to provide support for dependents and to provide for the enforcement by circuit courts in chancery of this state of the duty of such persons to support their dependents in accordance with the requirements of the laws of other states or any foreign state having reciprocal legislation, and to grant to such courts power to enforce such obligations by procedures including contempt; and to prescribe the procedure to be followed by such courts in case of proceedings to require enforcement of the duty to support residents of this state by those obligated to furnish such support through proceedings in courts of other states or any foreign state having reciprocal legislation; to prescribe certain powers and duties of the friend of the court; to prescribe certain powers and duties of certain state officers, agencies, and departments; and to prescribe rules of evidence in such proceedings.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

*The People of the State of Michigan enact:*

#### **780.151 Short title.**

Sec. 1. This act shall be known and may be cited as the “revised uniform reciprocal enforcement of support act”.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.152 Purposes of act; construction.**

Sec. 2. (1) The purposes of this act are to improve, extend, and make uniform by reciprocal legislation the enforcement of duties of support.

(2) This act shall be construed to effectuate its general purpose to make uniform the law of those states which enact comparable legislation.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.153 Meanings of words and phrases.**

Sec. 3. For the purposes of this act, unless the context requires otherwise, the words and phrases defined in sections 3a and 3b have the meanings ascribed to them in those sections.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.153a Definitions; C to O.**

Sec. 3a. (1) “Court” means the appropriate circuit court of this state and, when the context requires, means the appropriate court of any other state as defined in a substantially similar reciprocal law.

(2) “Duty of support” means any duty of support owed to an obligee whether imposed or impossible by law or by order, decree, or judgment of any court, whether temporary or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid. “Duty of support” also includes the duty to reimburse a state or political subdivision for support furnished to an obligee.

(3) “Foreign support order” means a support order issued by a state other than Michigan.

(4) “Governor” means any person performing the functions of governor or the executive authority of any state covered by this or a substantially reciprocal law.

(5) “Initiating court” means the court in which a proceeding is commenced.

(6) “Initiating state” means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(7) “Interstate central registry” means the entity in a state that is established pursuant to federal regulation and that is responsible for receiving, reviewing, forwarding, and responding to inquiries about interstate child support actions.

(8) “Law” means both common and statutory law.

(9) “Obligee” means a person, including a state or political subdivision, to whom a duty of support is owed or a person, including a state or political subdivision, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(10) “Obligor” means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.



(11) “Office of the friend of the court” means the agency created in section 3 of Act No. 294 of the Public Acts of 1982, being section 552.503 of the Michigan Compiled Laws.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

#### **780.153b Definitions; P to S.**

Sec. 3b. (1) “Prosecuting attorney” means the public official in the appropriate jurisdiction who has the duty to enforce criminal laws relating to the failure to provide for the support of a person.

(2) “Register” means to file in the registry of foreign support orders.

(3) “Registering court” means a court of this state in which a support order of a rendering state is registered.

(4) “Rendering state” means a state in which a court has issued a support order for which registration is sought or granted in a court of another state.

(5) “Responding court” means the court in which a responsive proceeding is commenced.

(6) “Responding state” means a state in which a responsive proceeding pursuant to the proceeding in the initiating state is commenced.

(7) “State” includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(8) “State disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(9) “Support order” means a judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

#### **780.154 Remedies additional.**

Sec. 4. The remedies herein provided are in addition to and not in substitution for any other remedies.

**History:** 1952, Act 8, Eff. Sept. 18, 1952.

#### **780.155 Duties of support generally.**

Sec. 5. Duties of support arising under the law of this state, when applicable under section 8, bind the obligor present in this state regardless of the presence or residence of the obligee.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.156 Powers of governor.**

Sec. 6. The governor of this state may:

(a) Demand of the governor of another state the surrender of a person found in that state who is charged in this state with the crime of failing to provide for the support of any person.

(b) Surrender on demand by the governor of another state a person found in this state who is charged in that state with the crime of failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled from the demanding state. The demand, the oath, and any proceedings for extradition pursuant to this section need not state nor show that the person whose surrender is demanded has fled from justice or, at the time of the commission of the crime, was in the demanding state.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.156a Conditions to making demand upon governor; delaying or declining honoring of demand.**

Sec. 6a. (1) Before making the demand upon the governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the governor of this state may require any prosecuting attorney of this state to satisfy him or her that at least 60 days prior thereto the obligee initiated proceedings for support under this act or that any proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the governor of this state may require any prosecuting attorney to investigate the demand and to report to him or her whether proceedings for support have been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated, he or she may delay honoring the

demand for a reasonable time to permit the initiation of a proceeding.

(3) If proceedings have been initiated and the person demanded has prevailed in those proceedings, the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.157 Obligor relieved of extradition; requirements.**

Sec. 7. Any obligor contemplated by sections 6 and 6a, who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or nonsupport entered in the courts of this state during the period of such compliance.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.158 Applicable duties of support; presumption.**

Sec. 8. Duties of support applicable under this act are those imposed or imposable under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1960, Act 55, Eff. Aug. 17, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.159 Reimbursement of state or political subdivision.**

Sec. 9. If a state or a political subdivision furnishes support to an individual obligee, it has the same right to initiate a proceeding under this act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.159a Enforcement of duties of support; defense of immunity not available.**

Sec. 9a. All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this act including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.160 Jurisdiction; venue.**

Sec. 10. (1) Jurisdiction of any proceeding in this state under this act is vested in the circuit court.

(2) The proper venue if this state is acting as an initiating state is in the county in which the petitioner resides or in which a valid prior and existing support order has been issued. The proper venue if this state is acting as a responding state and a valid support order has been issued in this state is in the county in which the support order was issued. The proper venue if this state is acting as a responding state and a valid support order has not been issued in this state is in the county in which the obligor resides or is found.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.160a Representation of obligee by prosecuting attorney.**

Sec. 10a. If this state is acting as an initiating state, the prosecuting attorney, upon the request of the state department of social services, shall represent the obligee in any proceeding under this act.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.161 Petition; verification; contents; filing; accepting or forwarding petition.**

Sec. 11. (1) The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought and all other pertinent information. The obligee may include in or attach to the petition any information which may help in locating or identifying the obligor, including a photograph of the obligor, a description of any distinguishing marks on the obligor's person, other names and aliases by which the obligor has been or is known, the name of the obligor's employer, the obligor's fingerprints, or the obligor's social security number.

(2) The petition may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept the petition, or if necessary, forward the petition pursuant to section 13a, on the ground that it should be filed with some other court of this or any other state because there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or because another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.161a Petition on behalf of minor obligee; execution and filing.**

Sec. 11a. A petition on behalf of a minor obligee may be executed and filed without appointment of the petitioner as guardian ad litem or next friend.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.162 Certification of petition; sending forms package and copy of act to interstate central registry; certification requirements.**

Sec. 12. If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or the obligor's property, the initiating court shall so certify and cause a completed forms package as required by federal regulation and 1 copy of this act, to be sent to the responding state's interstate central registry. Certification shall be in accordance with the requirements of the initiating state.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

#### **780.162a Belief that obligor may flee jurisdiction; procedure.**

Sec. 12a. If the court of this state believes that the obligor may flee the jurisdiction, it may:

(a) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process.

(b) As a responding court, obtain the body of the obligor by appropriate process. The court may subsequently release the obligor upon the obligor's own recognizance or upon the obligor's giving a bond in an amount set by the court to assure the obligor's appearance at the hearing.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.162b Duties of office of child support; use of state locator service.**

Sec. 12b. (1) The office of child support of the state department of social services is designated as the state information agency and the interstate central registry under this act, and it shall do all of the following:

(a) Distribute copies of any amendments to the act and a statement of their effective date to all other state information agencies.

(b) Maintain a list of each interstate central registry in the United States and its address, and provide the list to every prosecutor's office and office of the friend of the court in this state.

(c) Maintain a supply of duplicated copies of this act, as amended, for the use of court officers in preparing cases to be forwarded to responding states.

(d) Act generally as a clearing center for information and maintain general liaison with the council of state governments, law enforcement agencies, the legislature, other governmental or private agencies concerned with this act, and the public.

(e) Forward to the court in this state which has proper venue, as determined under section 10, the petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(2) If the state information agency does not know the location of the obligor or the obligor's property, the agency shall use its state locator service to obtain this information.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

#### **780.163 Court acting as responding court; docketing case; notification of prosecuting attorney; duties of prosecuting attorney; utilization of child support formula.**

Sec. 13. (1) When the court of this state, acting as a responding court, receives from the interstate central registry of this state copies of the petition, certificate, and act, the clerk of the court shall docket the case and notify the prosecuting attorney of the county, who shall be charged with the duty of carrying on the proceedings.

(2) The prosecuting attorney shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or the obligor's property. He or she shall prosecute the case diligently.

(3) A prosecuting attorney petitioning for child support under this act shall utilize as a guideline the child support formula developed under section 19 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being section 552.519 of the Michigan Compiled Laws.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

#### **780.163a Inability to obtain jurisdiction; duties of prosecuting attorney and clerk of court; forwarding documents.**

Sec. 13a. If, because of inaccuracies in the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he or she has done to locate the obligor or the property of the obligor and request the court to continue the case pending receipt of more accurate information or an amended petition from the court of the initiating state. If the prosecuting attorney discovers that the proper venue is in another county of this state or that the obligor or the property of the obligor may be found in another state, he or she shall so inform the court. The clerk of the court in the responding state shall forward the documents received from the initiating state to the court of proper venue in this state, or, upon approval of the initiating state, to the interstate central registry of the state in which the obligor or the property of the obligor can be located with a request that the documents be forwarded to the proper court. All powers and duties provided by this act apply to the recipient of the documents forwarded pursuant to this section. If the clerk of a court of the responding state forwards documents to another court, he or she shall immediately notify the court of the initiating state. If a prosecuting attorney does not have any information as to the location of the obligor or the property of the obligor, he or she shall inform the court of the initiating state of that fact.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

#### **780.163b Manner of conducting proceedings.**

Sec. 13b. The court, except as provided otherwise in this act, shall conduct proceedings under this act in the manner prescribed by law for an action for the enforcement of the type of duty of support claimed.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.163c Evidence as to duty of support.**

Sec. 13c. If the obligee is not present at the hearing and the obligor offers evidence constituting a defense which the court does not consider frivolous, upon the request of either party, the court shall continue the hearing to permit evidence relative to the duty of support. The evidence may be adduced by either party by deposition, interrogatories, or affidavits.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.164 Support order; payments; amount; deviation from formula.**

Sec. 14. (1) If the court of this state when acting as a responding court finds a duty of support, the court may order the obligor to furnish support and subject the property of the obligor to the order. The support order shall require that payments be made to the office of the friend of the court or the state disbursement unit, as appropriate.

(2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

- (a) The support amount determined by application of the child support formula.
- (b) How the support order deviates from the child support formula.
- (c) The value of property or other support awarded in lieu of the payment of child support, if applicable.
- (d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

(3) Subsection (2) does not prohibit the court from entering a support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1989, Act 279, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

#### **780.164a Transition to centralized receipt and disbursement of support and fees.**

Sec. 14a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

**History:** Add. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

#### **780.165 Sending copy of support order to initiating court.**

Sec. 15. The court of this state when acting as a responding court shall cause a copy of all support orders to be sent to the initiating court.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.166 Terms and conditions assuring compliance; enforcement of support order.**

Sec. 16. (1) In addition to the foregoing powers, the court of this state when acting as a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders.

(2) A support order entered by the court of this state when acting as a responding court shall be enforceable as provided in the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1955, Act 161, Imd. Eff. June 7, 1955;—Am. 1966, Act 232, Eff. Jan. 1, 1967;—Am. 1985, Act 45, Imd. Eff. June 14, 1985;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1996, Act 4, Eff. June 1, 1996.

#### **780.166a Adjudicating issue of paternity.**

Sec. 16a. The court of this state when acting as a responding court may adjudicate the issue of paternity if both of the following apply:

- (a) Paternity has not been legally acknowledged, previously adjudicated, or established by marriage.
- (b) The obligor asserts as a defense that he is not the father of the child for whom support is sought.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.167 Duties of court carried out through office of friend of court.**

Sec. 17. The court of this state, when acting as a responding court, has the following duties which may be carried out through the office of the friend of the court:

(a) To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise.

(b) To furnish to the initiating court upon request a certified statement of all payments made by the obligor.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.168 Receipt and disbursement of payments; valid prior and existing support order; carrying out duties.**

Sec. 18. (1) Except as provided in subsection (2), the court of this state, when acting as an initiating court, shall receive and disburse immediately all payments made by the obligor or sent by the responding court.

(2) If a valid prior and existing support order has been issued from a court of this state other than the initiating court, the initiating court shall transfer the order to furnish support to the court that issued the valid prior and existing court order and shall inform the court of the responding state of its action. The court that issued the valid prior and existing court order shall receive and disburse immediately all payments made by the obligor or sent by the responding court.

(3) The duties described in subsections (1) and (2) may be carried out through the office of the friend of the court, the clerk of the court, or the state disbursement unit, as appropriate.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

#### **780.169 Husband and wife; privilege against disclosure inapplicable; competent witnesses; compelling testimony.**

Sec. 19. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.169a Pending or prior action or proceeding; hearing; issuance of support order pendente lite; bond; conforming support order to amount allowed in other action or proceeding; staying enforcement prohibited.**

Sec. 19a. A responding court shall not stay the proceeding or refuse a hearing under this act because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite and it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other pending action or proceeding is concluded before the hearing in the instant



proceeding and the judgment in the other action or proceeding provides for the support demanded in the petition being heard, the court must conform its support order to the amount allowed in the other action or proceeding and shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.170 Fees and costs.**

Sec. 20. An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee, but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the county. These costs or fees do not have priority over amounts due to the obligee.

**History:** 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.171 Nullification of support orders; crediting amounts paid.**

Sec. 21. A support order made by a court of this state pursuant to this act does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.172 Jurisdiction not conferred by participation in proceeding.**

Sec. 22. Participation in any proceeding under this act does not confer jurisdiction upon any court over any of the parties to the proceeding in any other proceeding.

**History:** Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.173 Reimbursement of county for cost of enforcing spousal or child support or parenting time order; service fee; computation, payment, and disposition; failure or refusal to pay service fee; contempt.**

Sec. 23. (1) To reimburse the county for the cost of enforcing a spousal or child support or a parenting time order under this act, the court shall order the payment of a service fee of \$2.00 per month, payable semiannually on each January 2 and July 2. The service fee shall be paid by the person ordered to pay the spousal or child support. The fee shall be computed from the beginning date of the spousal or child support order and shall continue while the spousal or child support order is operative. The service fee shall be paid 6 months in advance on each due date, except for the first payment, which shall be paid at the same time the spousal or child support order is filed, and covers the period of time from that month until the next calendar due date. An order or judgment for the payment of temporary or permanent spousal or child support shall provide for the payment of the service fee. Upon its own motion, a court may amend an order or judgment for the payment of temporary or permanent spousal or child support to provide for the payment of the service fee in the amount provided by this subsection, upon proper notice to the person ordered to pay the spousal or child support. The service fees shall be turned over to the county treasurer and credited to the general fund of the county.

(2) The court may hold in contempt a person who fails or refuses to pay a service fee ordered under subsection (1).

**History:** Add. 1955, Act 161, Imd. Eff. June 7, 1955;—Am. 1959, Act 108, Eff. Mar. 19, 1960;—Am. 1967, Act 72, Eff. Jan. 1, 1968;—Am. 1983, Act 192, Imd. Eff. Nov. 1, 1983;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

#### **780.174 Foreign state as reciprocating state; declaration; revocation.**

Sec. 24. Where the director of social services is satisfied that reciprocal provisions will be made by any foreign state for the enforcement in that foreign state of support orders made within this state, the director of social services, with the approval of the attorney general, may declare the foreign state to be a reciprocating state for the purpose of this act. Any such order may be revoked by the director of social services, and the state with respect to which the order was made shall then cease to be a reciprocating state for the purposes of



this act.

**History:** Add. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.175 Appeal.**

Sec. 25. If the attorney general or the director of social services is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, the attorney general may, or the director of social services may request the attorney general to, do either of the following:

- (a) Perfect an appeal to the proper appellate court if the support order was issued by a court of this state.
- (b) If the support order was issued in another state, cause the appeal to be taken in the other state.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.176 Additional remedies.**

Sec. 26. If the duty of support is based on a foreign support order, the obligee has additional remedies as provided in sections 27 to 31.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.177 Registration of foreign support order.**

Sec. 27. The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes provided in this act.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.178 Registry of foreign support orders.**

Sec. 28. The clerk of the court shall maintain a registry of foreign support orders in which he or she shall file foreign support orders.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.179 Registration of valid existing support order or foreign support order by friend of court; confirmation of registered order.**

Sec. 29. (1) If this state is acting as a rendering state, the friend of the court upon the request of the court or the state department of social services shall proceed to register a valid existing support order of this state in the state where the obligor or the property of the obligor can be located.

(2) Notwithstanding that this state is not the rendering state, the friend of the court upon the request of a resident obligee of a valid existing foreign support order shall proceed to register the foreign support order in the state where the obligor or the property of the obligor can be located.

(3) If this state is acting as a registering state, the friend of the court upon the request of the court or the state department of social services shall proceed to confirm a registered order.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.180 Registration of foreign support order by obligee; transmittal and filing of documents; filing as registration; docketing case; notification of friend of court; mailing or serving notice of registration; copy of registered support order and post office address of obligee; petition to vacate registration or seek other relief; confirmation of registered support order; sending copy of petition to friend of court; hearing; defenses; staying enforcement of order; proof; security.**

Sec. 30. (1) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court through the interstate central registry of this state 3 copies of the order, 1 of which shall be certified, with all modifications of the order, 1 copy of the reciprocal enforcement of support act of the state in which the order was made, and a statement verified and signed by the obligee, showing the post-office address of the obligee, the last known place of residence and post-office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this act.

(2) Promptly upon registration of the foreign support order, the clerk of the court shall docket the case and shall notify the friend of the court of the registration of the foreign support order. The friend of the court shall mail by certified or registered mail, return receipt requested, to the obligor at the address given, or serve upon the obligor under the Michigan court rules, a notice of the registration with a copy of the registered support order and the post office address of the obligee.

(3) Within 28 days after service, the obligor may petition the court to vacate the registration or to seek other relief. If the obligor does not petition the court within 28 days after service to vacate the registration or to seek other relief, the registered support order is confirmed. If the obligor does petition the court to vacate the registration or seek other relief, the obligor shall send a copy of the petition to the friend of the court.

(4) If the obligor petitions the court to vacate the registration or for other relief, a hearing shall be scheduled. At the hearing, the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a foreign money judgment. If the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

#### **780.181 Effect and enforcement of confirmed registered foreign support order.**

Sec. 31. (1) If a registered foreign support order has been confirmed, it shall be treated in the same manner as a support order issued by a court of this state. A registered foreign support order has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, modifying, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

(2) The friend of the court shall enforce a confirmed order.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

#### **780.181a Foreign support order; transmittal of support payments to friend of court or state disbursement unit; duties of friend of court or SDU; filing copy of foreign support order.**

Sec. 31a. (1) If there is no Michigan support order but there is a foreign support order, upon request of the obligee or the family independence agency if support has been assigned to it, the friend of the court in the county where the obligee resides shall inform the source of support payments to transmit the payments to the friend of the court or the state disbursement unit, as appropriate.

(2) The friend of the court or SDU shall receive, record, disburse, and monitor payments made pursuant to the foreign support order.

(3) A copy of the foreign support order shall be filed with the clerk of the court.

(4) The filing of a support order pursuant to this section is not a registration as described in section 30.

**History:** Add. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

#### **780.182 Adjudicating issue of support only; jurisdiction.**

Sec. 32. (1) A proceeding under this act shall adjudicate only the issue of support and shall not adjudicate an issue of custody or parenting time.

(2) Nothing in this act shall prevent a court which has prior continuing jurisdiction over the parties in matters of support, custody, and parenting time from exercising its jurisdiction over those matters.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1996, Act 4, Eff. June 1, 1996.

#### **780.183 Representation of obligee by attorney general or private legal counsel.**

Sec. 33. (1) If this state is the initiating, responding, rendering, or registering state in proceedings under this act, and the prosecuting attorney neglects or refuses to represent the obligee, the attorney general may undertake the representation.

(2) The obligee may be represented in any proceedings under this act by private legal counsel at the obligee's own expense.

**History:** Add. 1985, Act 172, Eff. Mar. 1, 1986.

**APPEAL AFTER DENIAL OF NEW TRIAL; INCORPORATING RECORD OF PROCEEDINGS IN  
BILL OF EXCEPTIONS  
Act 134 of 1893**

AN ACT to provide for incorporating the record of proceedings had on motions for new trial in bills of exceptions.

**History:** 1893, Act 134, Eff. Aug. 28, 1893.

*The People of the State of Michigan enact:*

**780.201 Appeal of case after denial of new trial; bill of exceptions.**

Sec. 1. That in all cases hereafter taken to the supreme court on writ of error or appeal, where a motion for a new trial has been previously refused by the trial judge, the party appealing the same may incorporate in the bill of exceptions a record of all proceedings had on said motion for a new trial, including the reasons given by the trial judge in refusing to grant said new trial. Exceptions may be taken and error assigned on the decision of the circuit judge in refusing such motion, and the same shall be reviewed by the supreme court.

**History:** 1893, Act 134, Eff. Aug. 28, 1893;—CL 1897, 10504;—CL 1929, 17370;—CL 1948, 780.201.

**DISPOSITION OF FILES AND PAPERS RELATING TO PROSECUTIONS**  
**Act 66 of 1949**

AN ACT to provide for the disposition of files and papers, other than dockets and books of journal entries, relating to prosecutions for offenses arising under the charter or any ordinance or regulation of any city or under any state law and civil actions in any municipal, justice, police, common pleas or other court established in any city with jurisdiction to hear such cases.

**History:** 1949, Act 66, Eff. Sept. 23, 1949;—Am. 1958, Act 150, Eff. Sept. 13, 1958.

*The People of the State of Michigan enact:*

**780.221 Municipal court; definition.**

Sec. 1. The term “municipal court” when used herein shall refer to any municipal, justice, police, common pleas, or other court established in any city with jurisdiction to hear cases relating to prosecutions for offenses arising under the charter, or any ordinance or regulation of any city, including the recorder's court of Detroit.

**History:** 1949, Act 66, Eff. Sept. 23, 1949.

**780.222 Files and papers; period to be filed; destruction.**

Sec. 2. All files and papers, other than dockets and books of journal entry, relating to prosecutions for offenses arising under the charter, or any ordinance or regulation of any city in any municipal court need not be filed for a longer period than 6 years from the date of filing of the complaints thereunder, unless otherwise ordered by the court, and may then be destroyed when ordered by the court.

**History:** 1949, Act 66, Eff. Sept. 23, 1949;—Am. 1952, Act 24, Eff. Sept. 18, 1952.

**780.223 Files and papers in criminal cases; period to be filed, destruction.**

Sec. 3. All files and papers relating to prosecutions for offenses arising under any law of this state in any municipal court shall be filed for 10 years from the date of sentence, acquittal, dismissal or other final action by the court in the cause, and may then be destroyed to such extent as is ordered by the court.

**History:** Add. 1958, Act 150, Eff. Sept. 13, 1958.

**780.224 Files and papers in civil action; destruction, docket entry.**

Sec. 4. All files and papers relating to civil actions commenced in any municipal court shall be retained for 7 years, except where the defendants at the time of commencement of the action as indicated by the files and papers were serving in the armed forces or were nonresidents of this state in which case the retention shall be for 10 years, from the date of the final judgment, order or dismissal of the cause with or without prejudice, and may then be destroyed to such extent as is ordered by the court. The docket shall be indorsed to indicate such action.

**History:** Add. 1958, Act 150, Eff. Sept. 13, 1958;—Am. 1964, Act 47, Imd. Eff. May 6, 1964.

**780.225 Dockets and books of journal entry; not construed as files and papers.**

Sec. 5. Dockets and books of journal entry shall not be construed as files and papers under the provisions of this act.

**History:** Add. 1958, Act 150, Eff. Sept. 13, 1958.

**PHOTOGRAPHING GRAND JURY PROCEEDINGS**  
**Act 196 of 1931**

AN ACT to prevent the taking of pictures of grand jury proceedings, or of persons present at or connected with the same, and to provide a penalty for the violation thereof.

**History:** 1931, Act 196, Eff. Sept. 18, 1931.

*The People of the State of Michigan enact:*

**780.301 Grand jury proceeding and persons connected therewith; photographs prohibited.**

Sec. 1. It shall be unlawful for any person to take or attempt to take any picture or photographic reproduction of any grand jury proceeding, or of any judge, witness, attorney, juror, officer or other person present at or in any way connected with such proceeding, either within any grand jury room or room, or building adjacent thereto either during such proceeding or during an adjournment or recess thereof.

**History:** 1931, Act 196, Eff. Sept. 18, 1931;—CL 1948, 780.301.

**780.302 Violation of act; misdemeanor, penalty.**

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

**History:** 1931, Act 196, Eff. Sept. 18, 1931;—CL 1948, 780.302.

**COERCION OF MARRIED WOMAN BY HUSBAND**  
**Act 85 of 1935**

AN ACT to abrogate the common law rule raising a presumption that a married woman committing an offense does so under coercion because she commits it in the presence of her husband.

**History:** 1935, Act 85, Eff. Sept. 21, 1935.

*The People of the State of Michigan enact:*

**780.401 Presumption of coercion by husband prohibited.**

Sec. 1. In the prosecution of any complaint or indictment charging a criminal offense, no presumption shall be indulged that a married woman committing an offense does so under coercion because she commits it in the presence of her husband.

**History:** 1935, Act 85, Eff. Sept. 21, 1935;—CL 1948, 780.401;—Am. 1990, Act 220, Imd. Eff. Oct. 8, 1990.

**CRIMINAL SEXUAL PSYCHOPATHIC PERSONS**  
**Act 165 of 1939**

**780.501-780.509 Repealed. 1966, Act 267, Eff. Mar. 10, 1967;—1968, Act 143, Eff. Aug. 1, 1968.**

**RETURN OF PAROLE VIOLATORS**  
**Act 177 of 1956**

**780.551-780.553 Repealed. 1957, Act 276, Eff. Sept. 27, 1957.**



## **RETURN OF PAROLE VIOLATORS**

### **Act 276 of 1957**

AN ACT relative to the return to Michigan of persons violating the terms and conditions of parole; and to repeal certain acts and parts of acts.

**History:** 1957, Act 276, Eff. Sept. 27, 1957.

*The People of the State of Michigan enact:*

#### **780.561 Return of parole violators; deputization of employees of other state.**

Sec. 1. The attorney general may deputize any person regularly employed by another state for such purposes to act as an officer and agent of this state in effecting the return of any person who has violated the terms and conditions of parole as imposed by this state. In any matter relating to the return of such a person, any agent so deputized shall have all the powers of a police officer of this state for the purpose of effecting the transfer and limited to the time required to effect it.

**History:** 1957, Act 276, Eff. Sept. 27, 1957.

#### **780.562 Parole violators; evidence of deputization.**

Sec. 2. Any deputization pursuant to this statute shall be in writing, duly authenticated by the secretary of state, and any person authorized to act as an agent of this state pursuant hereto shall carry formal evidence of his deputization and shall produce the same upon demand.

**History:** 1957, Act 276, Eff. Sept. 27, 1957.

#### **780.563 Parole violators; contracts for expenses, terms.**

Sec. 3. The attorney general is hereby authorized, subject to the approval of the controller of the department of administration, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole as imposed by this state. The contract shall covenant and agree as follows:

“1. The party states hereby agree that any two or more of them may, in the discretion of their appropriate officials, cooperate in effecting the return of any parole violator.

“2. In any instance where any officer or officers of one or more of the parties hereto shall effect the return of a parole violator from any jurisdiction to the custody of the state directing his return, the state on whose behalf the return is made shall bear the financial burden of such return and the extent of the financial liability of the cooperating states shall be determined as provided in paragraphs 3, 4 and 5 of this contract.

“3. In every instance where a cooperative return of one or more parole violators is undertaken, the round trip distance which would have been traveled by the officers of each cooperating state in effecting the return of its own violators shall be computed and the sum of all such round trip distances shall also be computed. The share of the expense of a trip chargeable to any cooperating state shall be determined by ascertaining the proportion which its own round trip would have borne to the sum of all round trips which would have been necessary if all states had effected the return of their own violators by employing their own regular officers. Whenever the violator or violators of any cooperating state are not returned to the ultimate destination entirely by the regular officer or officers of another cooperating state or states, the state to which such violator or violators are to be returned shall be entitled to deduct the round trip distance between said ultimate destination and the point where it receives custody of its violator or violators from the round trip distance which its officer or officers would have traveled if such state had effected the entire return of such violator or violators. Standard highway or railway mileage shall be used in calculating distances pursuant to this paragraph.

“4. The entire cost of a cooperative trip, but not including any charge on account of the salary or wages of any officer employed on said trip, shall form the base for determining the share of the expense to be borne by each cooperating state. The cost of any mileage shall be at the official rate for vehicles prevailing in the state by which such vehicles are owned or leased.

“5.(a) Except where any injury or damage referred to herein results solely from the violent act or acts of its own violator or violators, no cooperating state shall be chargeable with any cost nor shall such state incur any liability by reason of injury to any officer regularly employed by another cooperating state nor shall any cooperating state be chargeable with or incur any liability by reason of damage to any vehicle or other equipment owned or leased by another cooperating state.

(b) Workmen's compensation benefits and payments shall be determined and made in accordance with the laws of the state regularly employing the officer.

“6. All payments due under this contract shall be made within thirty days of the conclusion of the cooperative trip by reason of which they have accrued unless the parties hereto shall by mutual agreement determine otherwise.”

**History:** 1957, Act 276, Eff. Sept. 27, 1957.

**780.564 Binding effect of act.**

Sec. 4. This act shall not be binding upon this state by any other state not having adopted such legislation.

**History:** 1957, Act 276, Eff. Sept. 27, 1957.

**780.565 Repeal.**

Sec. 5. Act No. 177 of the Public Acts of 1956, being sections 780.551 to 780.553 of the Compiled Laws of 1948, is hereby repealed.

**History:** 1957, Act 276, Eff. Sept. 27, 1957.

**RELEASE OF MISDEMEANOR PRISONERS**  
**Act 44 of 1961**

AN ACT to provide for the release of misdemeanor prisoners by giving bond to the arresting officer in certain circumstances not inconsistent with public safety; and to repeal certain acts and parts of acts.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961.

*The People of the State of Michigan enact:*

**780.581 Taking person arrested without warrant for misdemeanor or violation of ordinance before magistrate; bond; receipt; holding certain arrested persons in holding cell, holding center, lockup, or county jail; “political subdivision” defined.**

Sec. 1. (1) If a person is arrested without a warrant for a misdemeanor or a violation of a city, village, or township ordinance, and the misdemeanor or violation is punishable by imprisonment for not more than 1 year, or by a fine, or both, the officer making the arrest shall take, without unnecessary delay, the person arrested before the most convenient magistrate of the county in which the offense was committed to answer to the complaint.

(2) Except as otherwise provided in section 2a, if a magistrate is not available or immediate trial cannot be had, the person arrested may deposit with the arresting officer or the direct supervisor of the arresting officer or department, or with the sheriff or a deputy in charge of the county jail if the person arrested is lodged in the county jail, an interim bond to guarantee his or her appearance. The bond shall be a sum of money, as determined by the officer who accepts the bond, not to exceed the amount of the maximum possible fine but not less than 20% of the amount of the minimum possible fine that may be imposed for the offense for which the person was arrested. The person shall be given a receipt as provided in section 3.

(3) If, in the opinion of the arresting officer or department, the arrested person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, is wanted by police authorities to answer to another charge, is unable to establish or demonstrate his or her identity, or it is otherwise unsafe to release him or her, the arrested person shall be held at the place specified in subsection (4) until he or she is in a proper condition to be released, or until the next session of court.

(4) For purposes of subsection (3), if the person is arrested in a political subdivision that has a holding cell, holding center, or lockup, the person shall be held in that holding cell, holding center, or lockup. However, if that holding facility is at capacity then the person may be held in a holding cell, holding center, or lockup willing to accept the prisoner. If the person is arrested in a political subdivision that does not have a holding cell, holding center, or lockup, the person shall be held in a holding cell, holding center, or lockup willing to accept the prisoner or in the county jail. As used in this subsection, “political subdivision” means a city, village, or township.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1983, Act 61, Eff. Mar. 29, 1984;—Am. 1985, Act 149, Imd. Eff. Nov. 12, 1985;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

**780.582 Arrest with warrant for misdemeanor or violation of ordinance; penalty; interim bond.**

Sec. 2. Except as otherwise provided in section 2a, if a person is arrested with a warrant for a misdemeanor or a violation of a city, village, or township ordinance, and the misdemeanor or violation is punishable by imprisonment for not more than 1 year or by a fine, or both, the provisions of section 1 shall apply, except that the interim bond shall be directed to the magistrate who has signed the warrant, or to any judge authorized to act in his or her stead.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

**780.582a Holding period; protective or release conditions.**

Sec. 2a. (1) A person shall not be released on an interim bond as provided in section 1 or on his or her own recognizance as provided in section 3a, but shall be held until he or she can be arraigned or have interim bond set by a judge or district court magistrate if either of the following applies:

(a) The person is arrested without a warrant under section 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15a, or a local ordinance substantially corresponding to that section.

(b) The person is arrested with a warrant for a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act and the person is a spouse or former spouse of the victim of the violation, has or has had a dating

relationship with the victim of the violation, has had a child in common with the victim of the violation, or is a person who resides or has resided in the same household as the victim of the violation. As used in this subdivision, "dating relationship" means that term as defined in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(2) If a judge or district court magistrate sets interim bond under this section, the judge or magistrate shall consider and may impose the condition that the person released shall not have or attempt to have contact of any kind with the victim.

(3) If a judge or district court magistrate releases under this section a person subject to protective conditions, the judge or district court magistrate shall inform the person on the record, either orally or by a writing that is personally delivered to the person, of the specific conditions imposed and that if the person violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bond forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if he or she is found in contempt of court.

(4) An order or amended order issued under subsection (3) shall contain all of the following:

(a) A statement of the person's full name.

(b) A statement of the person's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or district court magistrate considers appropriate.

(c) A statement of the date the conditions become effective.

(d) A statement of the date on which the order will expire.

(e) A statement of the conditions imposed, including, but not limited to, the condition prescribed in subsection (3).

(5) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (3) into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(6) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216, or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (5).

(7) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

**History:** Add. 1990, Act 308, Eff. Mar. 28, 1991;—Am. 2001, Act 198, Eff. Apr. 1, 2002.

### **780.583 Deposit of interim bond; form of receipt; forfeiture; waiver; order; warrant.**

Sec. 3. (1) If an arrested person deposits an interim bond pursuant to section 1, the officer accepting the bond shall give a receipt to the person for the money deposited with him or her on a form as follows:

Received from	Date
Dollars as cash bail to assure the appearance of	the sum of
before	District Court Judge (or Municipal
Judge) for	, at
on the	day of , 19 , to
to answer to a charge of .	

If the accused fails to appear at the time and place specified above and to submit to the jurisdiction of the court and stand to and abide by any order of the court, the sum specified above shall be forfeited to the state or the arresting political subdivision.

By depositing this money and accepting this receipt the accused waives any claim to the money following forfeiture.

Officer

Dept.

(2) If the accused fails to appear as required in the interim bond receipt, the court shall order the bond forfeited as in cases of default in bail. In addition, the court may issue a warrant upon a signed complaint for the arrest of the accused or a bench warrant for the further appearance of the accused.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

**780.583a Release on own recognizance; interim bond receipt.**

Sec. 3a. Except as otherwise provided in section 2a, if an arrest is made on a misdemeanor warrant from another county, the arresting officer may release the arrested person on his or her own recognizance. An interim bond receipt as provided in section 3 shall be executed. On the face of the receipt shall be written “released on own recognizance”.

**History:** Add. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

**780.584 Officer taking deposit; report; embezzlement.**

Sec. 4. Every officer taking a deposit under this act within 48 hours thereafter or at the next session of court shall deposit the same with the magistrate named in the receipt form, together with the facts relating to such arrest, and failure to make such report and deposit such money shall be deemed embezzlement of public money.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961.

**780.585 Magistrate; change of bond amounts.**

Sec. 5. In cases arising under section 2 of this act, the magistrate issuing the warrant may endorse on the back thereof a greater or a lesser amount for an interim bond.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971.

**780.586 Interim bond; purpose; change of amount on arraignment.**

Sec. 6. Cash bonds accepted under this act shall be known as interim bonds, and shall be for the purpose of securing the defendant's arraignment in court, at which time said court may continue said bond for further proceedings, or may require a property bond or a cash bond in a greater or lesser amount.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971.

**780.587 Traffic offenses not affected.**

Sec. 7. The provisions of this act shall not affect section 728 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.728 of the Compiled Laws of 1948.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971.

**780.588 Repeal.**

Sec. 8. Section 13 of chapter 4 of Act No. 175 of the Public Acts of 1927, as amended, being section 764.13 of the Compiled Laws of 1948, is hereby repealed.

**History:** 1961, Act 44, Imd. Eff. May 20, 1961.

## INTERSTATE AGREEMENT ON DETAINERS

### Act 141 of 1961

AN ACT to ratify and enact the agreement on detainers into the laws of the state; to provide for the administration and enforcement of the agreement; and to provide penalties for violation of this act.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

*The People of the State of Michigan enact:*

#### **780.601 Interstate agreement on detainers.**

Sec. 1. The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

#### **THE AGREEMENT ON DETAINERS**

The contracting states solemnly agree that:

#### **ARTICLE I**

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of co-operative procedures. It is the further purpose of this agreement to provide such co-operative procedures.

#### **ARTICLE II**

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

#### **ARTICLE III**

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officers' jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: Provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer



is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

#### ARTICLE IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided, That the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: And provided further, That there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

#### ARTICLE V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a

sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

## ARTICLE VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

## ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

## ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

## ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable, and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.602 Appropriate court; definition.**

Sec. 2. The phrase "appropriate court" as used in the agreement on detainers, with reference to the courts of this state, means all courts of record.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.603 Agreement on detainers; cooperation to enforce.**

Sec. 3. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.604 Agreement on detainers; nonapplicability of habitual criminal act.**

Sec. 4. Nothing in this act or in the agreement on detainers shall be construed to require the application of sections 10, 11 and 12 of chapter 9 of Act No. 175 of the Public Acts of 1927, as amended, being sections 769.10, 769.11 and 769.12 of the Compiled Laws of 1948, to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.605 Agreement on detainers; escape from custody in another state.**

Sec. 5. Escape from custody while in any other state pursuant to the agreement on detainers constitutes an offense against the laws of this state to the same extent and degree as escape from prison in this state and shall be punishable in the same manner as such an escape.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.606 Agreement on detainers; duty of wardens.**

Sec. 6. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.607 Agreement on detainers; director of department of corrections.**

Sec. 7. The director of the department of corrections shall serve as the central administrator and chief enforcement officer of this act.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

### **780.608 Agreement on detainers; copies of act, distribution.**

Sec. 8. Copies of this act, upon its approval, shall be transmitted to the governor of each state and the attorney general and the secretary of state of the United States and to the council of state governments.

**History:** 1961, Act 141, Eff. Sept. 8, 1961.

## SETTING ASIDE CONVICTIONS Act 213 of 1965

AN ACT to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties.

**History:** 1965, Act 213, Imd. Eff. July 16, 1965;—Am. 1982, Act 495, Eff. Mar. 30, 1983.

*The People of the State of Michigan enact:*

### **780.621 Application for order setting aside conviction; setting aside of certain convictions prohibited; time and contents of application; submitting application and fingerprints to department of state police; report; application fee; contest of application by attorney general or prosecuting attorney; notice to victim; affidavits and proofs; court order; definitions.**

Sec. 1. (1) Except as provided in subsection (2), a person who is convicted of not more than 1 offense may file an application with the convicting court for the entry of an order setting aside the conviction.

(2) A person shall not apply to have set aside, and a judge shall not set aside, a conviction for a felony for which the maximum punishment is life imprisonment or an attempt to commit a felony for which the maximum punishment is life imprisonment, a conviction for a violation or attempted violation of section 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520d, and 750.520g, or a conviction for a traffic offense.

(3) An application shall not be filed until at least 5 years following imposition of the sentence for the conviction that the applicant seeks to set aside or 5 years following completion of any term of imprisonment for that conviction, whichever occurs later.

(4) The application is invalid unless it contains the following information and is signed under oath by the person whose conviction is to be set aside:

(a) The full name and current address of the applicant.

(b) A certified record of the conviction that is to be set aside.

(c) A statement that the applicant has not been convicted of an offense other than the one sought to be set aside as a result of this application.

(d) A statement as to whether the applicant has previously filed an application to set aside this or any other conviction and, if so, the disposition of the application.

(e) A statement as to whether the applicant has any other criminal charge pending against him or her in any court in the United States or in any other country.

(f) A consent to the use of the nonpublic record created under section 3 to the extent authorized by section 3.

(5) The applicant shall submit a copy of the application and 2 complete sets of fingerprints to the department of state police. The department of state police shall compare those fingerprints with the records of the department, including the nonpublic record created under section 3, and shall forward a complete set of fingerprints to the federal bureau of investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the application is filed the information contained in the department's records with respect to any pending charges against the applicant, any record of conviction of the applicant, and the setting aside of any conviction of the applicant and shall report to the court any similar information obtained from the federal bureau of investigation. The court shall not act upon the application until the department of state police reports the information required by this subsection to the court.

(6) The copy of the application submitted to the department of state police under subsection (5) shall be accompanied by a fee of \$50.00 payable to the state of Michigan which shall be used by the department of state police to defray the expenses incurred in processing the application.

(7) A copy of the application shall be served upon the attorney general and upon the office of the prosecuting attorney who prosecuted the crime, and an opportunity shall be given to the attorney general and to the prosecuting attorney to contest the application. If the conviction was for an assaultive crime or a serious misdemeanor, the prosecuting attorney shall notify the victim of the assaultive crime or serious misdemeanor of the application pursuant to section 22a or 77a of the crime victim's rights act, 1985 PA 87, MCL 780.772a and 780.827a. The notice shall be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under this act concerning that conviction and to make a written or oral

statement.

(8) Upon the hearing of the application the court may require the filing of affidavits and the taking of proofs as it considers proper.

(9) If the court determines that the circumstances and behavior of the applicant from the date of the applicant's conviction to the filing of the application warrant setting aside the conviction and that setting aside the conviction is consistent with the public welfare, the court may enter an order setting aside the conviction. The setting aside of a conviction under this act is a privilege and conditional and is not a right.

(10) As used in this section:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(b) "Serious misdemeanor" means that term as defined in section 61 of the crime victim's rights act, 1985 PA 87, MCL 780.811.

(c) "Victim" means that term as defined in section 2 of the crime victim's rights act, 1985 PA 87, MCL 780.752.

**History:** 1965, Act 213, Imd. Eff. July 16, 1965;—Am. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 1993, Act 342, Eff. May 1, 1994;—Am. 1996, Act 573, Eff. Apr. 1, 1997;—Am. 2002, Act 472, Eff. Oct. 1, 2002.

### **780.621a Definitions.**

Sec. 1a. As used in this act:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere, or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Traffic offense" means a violation of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or a local ordinance substantially corresponding to that act, which violation involves the operation of a vehicle and at the time of the violation is a felony or misdemeanor.

**History:** Add. 1982, Act 495, Eff. Mar. 30, 1983.

### **780.622 Entry of order; effect.**

Sec. 2. (1) Upon the entry of an order pursuant to section 1, the applicant, for purposes of the law, shall be considered not to have been previously convicted, except as provided in this section and section 3.

(2) The applicant is not entitled to the remission of any fine, costs, or other money paid as a consequence of a conviction that is set aside.

(3) If the conviction set aside pursuant to this act is for a listed offense as defined in section 2 of the sex offenders registration act, the applicant is considered to have been convicted of that offense for purposes of the sex offenders registration act.

(4) This act does not affect the right of the applicant to rely upon the conviction to bar subsequent proceedings for the same offense.

(5) This act does not affect the right of a victim of a crime to prosecute or defend a civil action for damages.

(6) This act does not create a right to commence an action for damages for incarceration under the sentence that the applicant served before the conviction is set aside pursuant to this act.

**History:** 1965, Act 213, Imd. Eff. July 16, 1965;—Am. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 1993, Act 342, Eff. May 1, 1994;—Am. 1994, Act 294, Eff. Oct. 1, 1995.

### **780.623 Sending copy of order to arresting agency and department of state police; retention and availability of nonpublic record of order and other records; providing copy of nonpublic record to person whose conviction set aside; fee; nonpublic record exempt from disclosure; prohibited conduct; misdemeanor; penalty.**

Sec. 3. (1) Upon the entry of an order pursuant to section 1, the court shall send a copy of the order to the arresting agency and the department of state police.

(2) The department of state police shall retain a nonpublic record of the order setting aside a conviction and of the record of the arrest, fingerprints, conviction, and sentence of the applicant in the case to which the order applies. Except as provided in subsection (3), this nonpublic record shall be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request and only for the following purposes:

(a) Consideration in a licensing function conducted by an agency of the judicial branch of state government.

(b) To show that a person who has filed an application to set aside a conviction has previously had a conviction set aside pursuant to this act.

(c) The court's consideration in determining the sentence to be imposed upon conviction for a subsequent offense that is punishable as a felony or by imprisonment for more than 1 year.

(d) Consideration by the governor if a person whose conviction has been set aside applies for a pardon for another offense.

(e) Consideration by a law enforcement agency if a person whose conviction has been set aside applies for employment with the law enforcement agency.

(f) Consideration by a court, law enforcement agency, prosecuting attorney, or the attorney general in determining whether an individual required to be registered under the sex offenders registration act has violated that act, or for use in a prosecution for violating that act.

(3) A copy of the nonpublic record created under subsection (2) shall be provided to the person whose conviction is set aside under this act upon payment of a fee determined and charged by the department of state police in the same manner as the fee prescribed in section 4 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.234 of the Michigan Compiled Laws.

(4) The nonpublic record maintained under subsection (2) is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(5) Except as provided in subsection (2), a person, other than the applicant, who knows or should have known that a conviction was set aside under this section and who divulges, uses, or publishes information concerning a conviction set aside under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

**History:** Add. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 1988, Act 11, Imd. Eff. Feb. 8, 1988;—Am. 1993, Act 342, Eff. May 1, 1994;—Am. 1994, Act 294, Eff. Oct. 1, 1995.

#### **780.624 Setting aside of convictions; limitation.**

Sec. 4. A person may have only 1 conviction set aside under this act.

**History:** Add. 1982, Act 495, Eff. Mar. 30, 1983.



## SEARCH WARRANTS Act 189 of 1966

AN ACT to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts.

**History:** 1966, Act 189, Eff. Mar. 10, 1967.

*The People of the State of Michigan enact:*

### **780.651 Issuance of search warrant; requirements; making affidavit for search warrant or search warrant by electronic or electromagnetic means; proof; oath or affirmation; impression seal; nonpublic information; suppression order.**

Sec. 1. (1) When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant under this act, the magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated.

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication, including by facsimile or over a computer network, if both of the following occur:

(a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.

(b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit or an electronic signature on an affidavit transmitted over a computer network.

(3) A judge or district court magistrate may issue a written search warrant in person or by any electronic or electromagnetic means of communication, including by facsimile or over a computer network.

(4) The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant or an electronic signature on a warrant transmitted over a computer network.

(5) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(6) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

(7) Except as provided in subsection (8), an affidavit for a search warrant contained in any court file or court record retention system is nonpublic information.

(8) On the fifty-sixth day following the issuance of a search warrant, the search warrant affidavit contained in any court file or court record retention system is public information unless, before the fifty-sixth day after the search warrant is issued, a peace officer or prosecuting attorney obtains a suppression order from a magistrate upon a showing under oath that suppression of the affidavit is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. The suppression order may be obtained ex parte in the same manner that the search warrant was issued. An initial suppression order issued under this subsection expires on the fifty-sixth day after the order is issued. A second or subsequent suppression order may be obtained in the same manner as the initial suppression order and shall expire on a date specified in the order. This subsection and subsection (7) do not affect a person's right to obtain a copy of a search warrant affidavit from the prosecuting attorney or law enforcement agency under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 1966, Act 189, Eff. Mar. 10, 1967;—Am. 1990, Act 43, Imd. Eff. Mar. 29, 1990;—Am. 2002, Act 128, Eff. Apr. 22, 2002;—Am. 2002, Act 506, Imd. Eff. July 19, 2002;—Am. 2003, Act 185, Imd. Eff. Oct. 17, 2003.

**Constitutionality:** A search warrant based upon an unsigned affidavit is presumed invalid, but the presumption may be rebutted by a showing that the facts in the affidavit supporting issuance of the warrant were made on oath to the magistrate who authorized issuance of the warrant. *People v. Mitchell*, 428 Mich. 364, 408 N.W.2d 798 (1987).

### **780.652 Search warrant; grounds for issuance.**

Sec. 2. A warrant may be issued to search for and seize any property or other thing which is either:

- (a) Stolen or embezzled in violation of any law of this state.
- (b) Designed and intended for use or which is or has been used as the means of committing a criminal offense.
- (c) Possessed, controlled or used wholly or partially in violation of any law of this state.
- (d) Evidence of crime or criminal conduct on the part of any person.
- (e) Contraband.
- (f) The bodies or persons of human beings or of animals, who may be the victims of a criminal offense.
- (g) The object of a search warrant under any other law of this state providing for the same. If a conflict exists between this act and any other search warrant law, this act shall be deemed controlling.

**History:** 1966, Act 189, Eff. Mar. 10, 1967.

#### **780.652a Search warrant; search and seizure of hair, tissue, blood, or other fluids.**

Sec. 2a. (1) If the court has probable cause to believe that an individual violated section 520b(1)(b)(ii) or (h)(i), 520c(1)(b)(ii) or (h)(i), 520d(1)(d), or 520e(1)(g) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520b, 750.520c, 750.520d, and 750.520e of the Michigan Compiled Laws, the court shall, upon proper petition for a search warrant, authorize the search and seizure of hair or tissue, or blood or other fluid samples from all of the following:

- (a) Any individual whom the court has probable cause to believe committed that violation.
- (b) If the court has probable cause to believe that the violation resulted in the birth of a child, that child.
- (c) If the court has probable cause to believe that the violation resulted in a pregnancy that was terminated before the birth of a child, the remains of that unborn child.

(2) This section does not prohibit the court from issuing a search warrant for other evidence as considered appropriate by the court.

**History:** Add. 1996, Act 186, Eff. June 1, 1996.

#### **780.653 Magistrate's finding of reasonable or probable cause; basis of finding; basis and contents of affidavit.**

Sec. 3. The magistrate's finding of reasonable or probable cause shall be based upon all the facts related within the affidavit made before him or her. The affidavit may be based upon information supplied to the complainant by a named or unnamed person if the affidavit contains 1 of the following:

- (a) If the person is named, affirmative allegations from which the magistrate may conclude that the person spoke with personal knowledge of the information.
- (b) If the person is unnamed, affirmative allegations from which the magistrate may conclude that the person spoke with personal knowledge of the information and either that the unnamed person is credible or that the information is reliable.

**History:** 1966, Act 189, Eff. Mar. 10, 1967;—Am. 1988, Act 80, Eff. June 1, 1988.

#### **780.654 Search warrant; direction of warrant; contents; order to suppress affidavit.**

Sec. 4. (1) A search warrant shall be directed to the sheriff or any peace officer, commanding the sheriff or peace officer to search the house, building, or other location or place, where any property or other thing for which the sheriff or peace officer is required to search is believed to be concealed. Each warrant shall designate and describe the house or building or other location or place to be searched and the property or thing to be seized.

(2) The warrant shall either state the grounds or the probable or reasonable cause for its issuance or shall have attached to it a copy of the affidavit.

(3) Upon a showing that it is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness, the magistrate may order that the affidavit be suppressed and not be given to the person whose property was seized or whose premises were searched until that person is charged with a crime or named as a claimant in a civil forfeiture proceeding involving evidence seized as a result of the search.

**History:** 1966, Act 189, Eff. Mar. 10, 1967;—Am. 2002, Act 112, Eff. Apr. 22, 2002.

#### **780.655 Property seized upon search; tabulation; filing; custody; restoration to owner; disposition of other property.**

Sec. 5. (1) When an officer in the execution of a search warrant finds any property or seizes any of the other things for which a search warrant is allowed by this act, the officer, in the presence of the person from whose possession or premises the property or thing was taken, if present, or in the presence of at least 1 other person, shall make a complete and accurate tabulation of the property and things that were seized. The officer

taking property or other things under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and shall give to the person a copy of the tabulation upon completion, or shall leave a copy of the warrant and tabulation at the place from which the property or thing was taken. The officer is not required to give a copy of the affidavit to that person or to leave a copy of the affidavit at the place from which the property or thing was taken.

(2) The officer shall file the tabulation promptly with the court or magistrate. The tabulation may be suppressed by order of the court until the final disposition of the case unless otherwise ordered. The property and things that were seized shall be safely kept by the officer so long as necessary for the purpose of being produced or used as evidence in any trial.

(3) As soon as practicable, stolen or embezzled property shall be restored to the owner of the property. Other things seized under the warrant shall be disposed of under direction of the court or magistrate, except that money and other useful property shall be turned over to the state, county or municipality, the officers of which seized the property under the warrant. Money turned over to the state, county, or municipality shall be credited to the general fund of the state, county, or municipality.

**History:** 1966, Act 189, Eff. Mar. 10, 1967;—Am. 2002, Act 112, Eff. Apr. 22, 2002.

#### **780.656 Service of warrant; officer's authorization to use force.**

Sec. 6. The officer to whom a warrant is directed, or any person assisting him, may break any outer or inner door or window of a house or building, or anything therein, in order to execute the warrant, if, after notice of his authority and purpose, he is refused admittance, or when necessary to liberate himself or any person assisting him in execution of the warrant.

**History:** 1966, Act 189, Eff. Mar. 10, 1967.

#### **780.657 Executing search warrant; wilfully exceeding authority; penalty.**

Sec. 7. Any person who in executing a search warrant, wilfully exceeds his authority or exercises it with unnecessary severity, shall be fined not more than \$1,000.00 or imprisoned not more than 1 year.

**History:** 1966, Act 189, Eff. Mar. 10, 1967.

#### **780.658 Unlawful procurement of search warrant; penalty.**

Sec. 8. Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than \$1,000.00 or imprisoned not more than 1 year.

**History:** 1966, Act 189, Eff. Mar. 10, 1967.

#### **780.659 Repeal.**

Sec. 9. Sections 1, 2, 3 and 5 of chapter 16 of Act No. 175 of the Public Acts of 1927, as amended, being sections 776.1, 776.2, 776.3 and 776.5 of the Compiled Laws of 1948, are repealed.

**History:** 1966, Act 189, Eff. Mar. 10, 1967.

## **GRANTING IMMUNITY TO WITNESSES**

### **Act 289 of 1968**

AN ACT to authorize certain judges to grant immunity to witnesses upon application of prosecuting attorneys; to permit grants of immunity to witnesses issued subpoenas or compelled to testify or produce evidence in certain investigations and proceedings by public officials or agencies; to prescribe the procedures therefor; and to prescribe penalties for refusal to testify and for giving false testimony.

**History:** 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

*The People of the State of Michigan enact:*

#### **780.701 Order granting immunity; application by prosecuting attorney; verified statement; determination to grant immunity.**

Sec. 1. (1) The prosecuting attorney may apply to the following, as applicable, for an order granting immunity to any person designated by name and address in the application who might give testimony concerning the violation charged in the complaint and warrant or alleged in the petition:

- (a) The examining magistrate at a preliminary examination.
- (b) The trial judge at a trial for a felony or misdemeanor.

(c) The judge at an adjudication for a juvenile alleged to be within the court's jurisdiction under section 2(a)(i) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or a probable cause hearing or trial in a case designated as a case in which the juvenile is to be tried in the same manner as an adult under section 2d of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

(2) The application shall be accompanied by the prosecuting attorney's verified statement setting forth the facts upon which the application is based.

(3) If the judge determines that it is in the interest of justice that immunity be granted, the judge shall enter an order granting immunity to the witness if the witness appears before the court in the proceeding and testifies truthfully under oath concerning any matter or thing of which the witness knows concerning matters charged in the complaint and warrant or alleged in the petition, as set forth in the prosecuting attorney's application.

**History:** 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

#### **780.702 Delivery of order to witness; applicability of order; transcript of answers; use of truthful testimony or information against witness in criminal case.**

Sec. 2. (1) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions subsequently asked at the proceeding. The order granting immunity applies until the judge informs the witness that the immunity no longer applies.

(2) All questions of the witness and his or her answers shall be transcribed at the judge's direction. A true and certified copy of the transcript shall be delivered to the witness as soon as practicable after transcription.

(3) Truthful testimony or other truthful information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

**History:** 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

#### **780.702a Order granting immunity; application by public official or agency authorized to compel testimony or produce evidence; verified statement; determination to grant immunity; delivery of order to witness; transcript of answers; use of truthful testimony, evidence, or other information against witness in criminal case; application for order granting immunity under other statute.**

Sec. 2a. (1) A public official or agency authorized by a statute of this state to issue a subpoena or otherwise compel the testimony of a witness or the production of evidence in an investigation or proceeding authorized by that statute, or authorized to seek a subpoena or compelled testimony or production of evidence from a court, may apply to the court required to issue the subpoena or compel the testimony or production of evidence or otherwise to the circuit court of the county in which the investigation or proceeding is conducted for an order granting immunity to a person who might give testimony or produce evidence concerning the investigation or subject of the proceeding.

(2) The application shall designate the person by name and address. The public official or agency shall include a verified statement setting forth the facts upon which the application is based.

(3) If the court determines that it is in the interests of justice to grant immunity, the court shall enter an order granting immunity to the witness if the witness testifies truthfully or produces evidence in the investigation or proceeding concerning the investigation or subject of the proceeding.

(4) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions subsequently asked at the investigation or proceeding or is required to produce any evidence. The order granting immunity applies until the court informs the witness that the immunity no longer applies.

(5) All questions of the witness and his or her answers shall be transcribed. A true and certified copy of the transcript shall be delivered to the witness as soon as practicable after transcription.

(6) Truthful testimony, evidence, or other truthful information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

(7) If a statute described in subsection (1) grants or permits immunity to a witness compelled to testify or produce evidence that is different in nature from the immunity authorized under this section, the public official or agency may apply for an order granting immunity under this section as an alternative to the immunity granted or permitted under that statute.

**History:** Add. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

#### **780.703 Failure or refusal to testify at proceeding after grant of immunity; contempt.**

Sec. 3. A witness who fails or refuses to testify at a proceeding described in this act after service of a true copy of the order granting the witness immunity is guilty of contempt.

**History:** 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

#### **780.704 False testimony; perjury, penalty.**

Sec. 4. A person who wilfully swears falsely under oath in regard to any matter or thing upon which he is being examined under a grant of immunity is subject to the penalties of perjury as prescribed by law.

**History:** 1968, Act 289, Eff. Nov. 15, 1968.

#### **780.705 Right to counsel.**

Sec. 5. A witness granted immunity as provided by this act has the right to representation by counsel at all times at his request.

**History:** 1968, Act 289, Eff. Nov. 15, 1968.

## **APPELLATE DEFENDER ACT**

### **Act 620 of 1978**

AN ACT relating to criminal procedure; to provide for the defense of persons accused or convicted of criminal offenses; to create the appellate defender commission; to provide for an appellate defender; to prescribe powers and duties; to provide facilities, personnel, and related assistance and services for the appellate defender and the commission; and to provide for the financing of the administration of this act.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

*The People of the State of Michigan enact:*

#### **780.711 Short title.**

Sec. 1. This act shall be known and may be cited as the “appellate defender act”.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.712 Appellate defender commission; creation; appointment, qualifications, and terms of members; compensation and expenses; development of system of indigent appellate defense services; development and adoption of minimum standards; roster of attorneys; appointment by trial court or referral; continuing legal education training program.**

Sec. 2. (1) An appellate defender commission is created within the office of the state court administrator. The appellate defender commission consists of 7 members appointed by the governor for terms of 4 years. Of the 7 members, 2 members shall be recommended by the supreme court of this state, 1 member shall be recommended by the court of appeals of this state, 1 member shall be recommended by the Michigan judges association, 2 members shall be recommended by the state bar of Michigan, and 1 member, who shall not be an attorney, shall be selected from the general public by the governor. A member of the commission shall not be at the time of appointment a sitting judge, a prosecuting attorney, or a law enforcement officer.

(2) Initially 4 members of the commission shall be appointed for terms of 4 years and 1 member each for terms of 1, 2, and 3 years respectively.

(3) Members of the commission shall not receive a salary in that capacity but shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(4) The commission shall be responsible for the development of a system of indigent appellate defense services which shall include services provided by the office of the state appellate defender, provided for under section 3, and locally appointed private counsel.

(5) The commission shall be responsible for the development of minimum standards to which all indigent criminal defense appellate services shall conform. Within 180 days after appointment of the commission and whenever the commission deems it advisable after that period, the commission shall submit proposed standards to the supreme court. Upon approval of the proposed standards by the supreme court, the commission shall adopt the standards.

(6) The commission shall compile and keep current a statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court to serve as criminal appellate defense counsel for indigents. The appointment of criminal appellate defense services for indigents shall be made by the trial court from the roster provided by the commission or shall be referred to the office of the state appellate defender.

(7) The commission shall provide a continuing legal education training program for its staff and the private attorneys who appear on the roster for purposes of appointment for indigent criminal defense appellate service.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.713 Appellate defender; appointment; dismissal; duties.**

Sec. 3. (1) An appellate defender shall be appointed and serve at the pleasure of the appellate defender commission. An appellate defender shall not be dismissed except for cause determined after a hearing. Dismissal shall require a majority vote of the commission.

(2) The appellate defender shall appoint and supervise the work of a deputy appellate defender and assistant appellate defenders and supporting personnel as authorized by the commission.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.714 Appellate defender, deputy appellate defender, and assistant appellate defender; qualifications, duties, and restrictions; court employees.**



Sec. 4. (1) The appellate defender, deputy appellate defender, and each assistant appellate defender shall:

- (a) Be an attorney licensed to practice law in this state.
- (b) Take and subscribe to the oath required by the constitution before taking office.
- (c) Perform duties as may be provided by law.
- (d) Represent the indigent defendant only subsequent to a conviction or entry of a guilty plea or plea of nolo contendere at the trial court level.
- (e) Not engage in the practice of law or as an attorney or counselor in a court of this state except in the exercise of his duties under this act.

(2) For purposes of this act the appellate defender, the deputy appellate defender, the assistant appellate defender, and support personnel shall be considered as court employees and not as classified civil service employees.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.715 Salaries and expenses; post audits; space and equipment.**

Sec. 5. (1) The salaries of the appellate defender, deputy appellate defender, assistant appellate defenders, and supporting personnel shall be established by the commission.

(2) The appellate defender, deputy appellate defender, assistant appellate defenders, and supporting personnel shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(3) Salaries and expenses attributable to the office of appellate defender shall be paid out of funds available for those purposes in accordance with the accounting laws of this state. The auditor general, under authority of section 53 of article 4 of the state constitution of 1963, shall perform post audits utilizing the same policies and criteria that are used to audit executive branch agencies.

(4) Within appropriations provided by law, the department of management and budget shall provide the office of appellate defender with suitable space and equipment in the city of Detroit and at other locations the commission considers necessary.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.716 Appellate defender; duties generally.**

Sec. 6. The appellate defender shall:

- (a) Conduct an appeal of a felony conviction or conduct other post conviction remedies on behalf of a person for whom the appellate defender is assigned as attorney by a court of a record.
- (b) Provide investigatory and other services necessary for a complete appellate review or appropriate post conviction remedy.
- (c) Accept only that number of assignments and maintain a caseload which will insure quality criminal defense appellate services consistent with the funds appropriated by the state. However, the number of cases assigned to the appellate defender office shall not be less than 25% of the total criminal defense appellate cases for indigents pending before the appellate courts of this state.
- (d) Maintain a repository of briefs prepared by the appellate defender and make those briefs available to private attorneys providing criminal defense appellate services for indigents.
- (e) Perform other duties required by law as directed by the commission.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.717 Special assistant appellate defenders; appointment; duties; payment on contract basis; practice of law not restricted.**

Sec. 7. The appellate defender may appoint special assistant appellate defenders to represent indigent persons or to assist in the representation of an indigent person at any stage of appellate or post conviction proceedings, upon rules adopted by the commission. Special assistant appellate defenders shall be paid on a contract basis approved by the commission within funds available to the commission and shall not be subject to the restrictions on the practice of law contained in section 4.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

#### **780.718 Office of appellate defender; funding.**

Sec. 8. The office of the appellate defender shall be funded in the following manner:

- (a) The legislature may annually appropriate funds necessary to insure the continued operation of the appellate defender commission and the office of the appellate defender.
- (b) The appellate defender commission may receive grants from the federal government, from private or public foundations, or from any person whether individual or corporate.



(c) The cost of any transcript shall be borne by the county.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

**780.719 Record; report.**

Sec. 9. The appellate defender shall keep a record of services rendered and expenses incurred and shall annually file a report of those services, expenses, and warrants with the commission and the legislature.

**History:** 1978, Act 620, Imd. Eff. Jan. 6, 1979.

**WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT**  
**Act 87 of 1985**

AN ACT to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 22, Eff. June 1, 1988.

*The People of the State of Michigan enact:*

**ARTICLE 1**

**780.751 Short title.**

Sec. 1. This act shall be known and may be cited as the "William Van Regenmorter crime victim's rights act".

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

**780.752 Definitions; designation of person to act in place of victim; privileges and rights.**

Sec. 2. (1) Except as otherwise defined in this article, as used in this article:

(a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(b) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony.

(c) "Defendant" means a person charged with, convicted of, or found not guilty by reason of insanity of committing a crime against a victim.

(d) "Facility", as used in sections 6, 13a, 19a, and 20 only, and not with reference to a juvenile facility, means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(e) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of sentence by the court.

(f) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(g) "Juvenile facility" means a county facility, institution operated as an agency of the county or the family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed or in which a juvenile is detained.

(h) "Hospital" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(i) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(j) "Prisoner" means a person who has been convicted and sentenced to imprisonment or placement in a juvenile facility for having committed a crime or an act that would be a crime if committed by an adult against a victim.

(k) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, or a special prosecuting attorney.

(l) "Victim" means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following individuals other than the defendant if the victim is deceased:

(A) The spouse of the deceased victim.

(B) A child of the deceased victim if the child is 18 years of age or older and sub-subparagraph (A) does not apply.

(C) A parent of a deceased victim if sub-subparagraphs (A) and (B) do not apply.

(D) The guardian or custodian of a child of a deceased victim if the child is less than 18 years of age and sub-subparagraphs (A) to (C) do not apply.

(E) A sibling of the deceased victim if sub-subparagraphs (A) to (D) do not apply.

(F) A grandparent of the deceased victim if sub-subparagraphs (A) to (E) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is mentally or emotionally unable to participate in the legal process if he or she is neither the defendant nor incarcerated.

(2) If a victim as defined in subsection (1)(l)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse, child 18 years of age or older, parent, sibling, grandparent, or any other person 18 years of age or older who is neither the defendant nor incarcerated to act in his or her place while the physical or emotional disability continues. The victim shall provide the prosecuting attorney with the name of the person who is to act in his or her place. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a crime arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims under this article.

(4) An individual who is incarcerated is not eligible to exercise the privileges and rights established for victims under this article except that he or she may submit a written statement to the court for consideration at sentencing.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.752a Duty to provide notice to victim; furnishing information or records.**

Sec. 2a. The duty under this chapter and under section 24 of article I of the state constitution of 1963 of a court, the department of corrections, the department of human services, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. In performing a duty under this chapter or under section 24 of article I of the state constitution of 1963, the court, department of corrections, department of human services, county sheriff, or prosecuting attorney may furnish information or records to the victim that would otherwise be closed to public inspection, including information or records described in section 14 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.14.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.753 Information to be given victim.**

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information in writing:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statements:

“If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them.”

“If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case.”.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.754 Return of property to victim; retention of evidence.**

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

**History:** 1985, Act 87, Eff. Oct. 9, 1985.

**780.754a Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.**

Sec. 4a. (1) To facilitate compliance with 15 USC 1681g, a bona fide victim of identity theft is entitled to file a police report with a law enforcement agency in a jurisdiction where the alleged violation of identity theft may be prosecuted as provided under section 10c of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a copy of that report from that law enforcement agency.

(2) As used in this section, "identity theft" means that term as defined in section 3 of the identity theft protection act.

**History:** Add. 2004, Act 456, Eff. Mar. 1, 2005.

**780.755 Victim to be given notice of availability of pretrial release, telephone number of sheriff or juvenile facility, and notice of right to contact sheriff or juvenile facility; revocation of bond or personal recognizance.**

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim notice of the availability of pretrial release for the defendant, the telephone number of the sheriff or juvenile facility, and notice that the victim may contact the sheriff or juvenile facility to determine whether the defendant has been released from custody. The law enforcement agency having responsibility for investigating the crime shall promptly notify the victim of the arrest or pretrial release of the defendant, or both, if the victim requests or has requested that information. If the defendant is released from custody by the sheriff or juvenile facility, the sheriff or juvenile facility shall notify the law enforcement agency having responsibility for investigating the crime.

(2) Based upon any credible evidence of acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.756 Notice to be given victim; consultation with prosecuting attorney; persons to be informed of victim's current address and telephone number.**

Sec. 6. (1) Not later than 7 days after the defendant's arraignment for a crime, but not less than 24 hours before a preliminary examination, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

- (a) A brief statement of the procedural steps in the processing of a criminal case.
  - (b) A specific list of the rights and procedures under this article.
  - (c) A convenient means for the victim to notify the prosecuting attorney that the victim chooses to exercise his or her rights under this article.
  - (d) Details and eligibility requirements for compensation from the crime victim services commission under 1976 PA 223, MCL 18.351 to 18.368.
  - (e) Suggested procedures if the victim is subjected to threats or intimidation.
  - (f) The person to contact for further information.
- (2) If the victim requests, the prosecuting attorney shall give the victim notice of any scheduled court proceedings and any changes in that schedule.

(3) Before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of the prosecution for the crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who chooses to receive any notice or exercise any right under this article shall keep the following persons informed of the victim's current address and telephone number:

- (a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.
- (b) The department of corrections or the sheriff, as the prosecuting attorney directs, if the defendant is imprisoned.
- (c) The department of human services or county juvenile agency, as the prosecuting attorney directs, if the defendant is held in a juvenile facility.
- (d) The hospital or facility, as the prosecuting attorney directs, if the defendant is hospitalized in or admitted to a hospital or a facility.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am.

**780.757 Waiting area for victim or other safeguards.**

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

**History:** 1985, Act 87, Eff. Oct. 9, 1985.

**780.758 Motion not to compel testimony of victim or other witness; hearing; address and phone number of victim not to be in court file or documents; exemption from disclosure; exception.**

Sec. 8. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) The work address and address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The work telephone number and telephone number of the victim shall not be in the court file or ordinary court documents except as contained in a transcript of the trial.

(3) Pursuant to section 24 of article I of the state constitution of 1963, guaranteeing to crime victims the right to be treated with respect for their dignity and privacy, all of the following information and visual representations of a victim are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The home address, home telephone number, work address, and work telephone number of the victim unless the address is used to identify the place of the crime.

(b) A picture, photograph, drawing, or other visual representation, including any film, videotape, or digitally stored image of the victim.

(4) Subsection (3) shall not preclude the release of information to a victim advocacy organization or agency for the purpose of providing victim services.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.759 Speedy trial; requirements; hearing; notice; time of trial.**

Sec. 9. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is declared by the prosecuting attorney to be any of the following:

(a) A victim of child abuse, including sexual abuse or any other assaultive crime.

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(c) Sixty-five years of age or older.

(d) An individual with a disability that inhibits the individual's ability to attend court or participate in the proceedings.

(2) The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 14 days of the date of the filing of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 21 days from the date of the hearing.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994.

**780.760 Conference with victim by prosecuting attorney.**

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

**History:** 1985, Act 87, Eff. Oct. 9, 1985.

**780.761 Presence of victim at trial; sequestering victim.**

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies. The victim shall not be

sequestered after he or she first testifies.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.762 Discharge or discipline of victim or victim representative by employer or employer's agent as misdemeanor; penalty; "victim representative" defined.**

Sec. 12. (1) An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(2) An employer or an employer's agent who disciplines or discharges a victim representative from employment, causes a victim representative to be disciplined or discharged from employment, or threatens to discipline or discharge a victim representative from employment because that victim representative attends or desires to attend court to be present during the testimony of the victim, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(3) As used in this section, "victim representative" means any of the following:

(a) A guardian or custodian of a child of a deceased victim if the child is less than 18 years of age.

(b) A parent, guardian, or custodian of a victim of an assaultive crime if the victim of the assaultive crime is less than 18 years of age.

(c) A person who has been designated under section 2(2) to act in place of a victim of an assaultive crime during the duration of the victim's physical or emotional disability.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994.

**780.763 Notice to be given victim by prosecuting attorney; means; contents of impact statement.**

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The crimes for which the defendant was convicted.

(c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

**History:** 1985, Act 87, Eff. Oct. 9, 1985.

**780.763a Providing victim with form to receive certain notices.**

Sec. 13a. (1) When a defendant is sentenced to probation, sentenced to a term of imprisonment, ordered to be placed in a juvenile facility, or hospitalized in or admitted to a hospital or a facility, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under section 18b, 19, 19a, 20, or 20a. The form shall include the address of the court, the department of corrections, the sheriff, the department of human services, the county juvenile agency, or the hospital or facility, as applicable, to which the form may be sent.

(2) If the defendant is sentenced to probation, the department of corrections or the sheriff, as applicable,



shall notify the victim if the probation is revoked and the defendant is sentenced to the department of corrections or to jail for more than 90 days. The notice shall include a form the victim may submit to the department of corrections or the sheriff to receive notices under section 19, 20, or 20a.

(3) If the department of corrections determines that a defendant who was, in the defendant's judgment of sentence, not prohibited from being or permitted to be placed in the special alternative incarceration unit established under section 3 of the special alternative incarceration act, 1988 PA 287, MCL 798.13, meets the eligibility requirements of section 34a(2) and (3) of the corrections code of 1953, 1953 PA 232, MCL 791.234a, the department of corrections shall notify the victim, if the victim has submitted a written request for notification under section 19, of the proposed placement of the defendant in the special alternative incarceration unit not later than 30 days before placement is intended to occur. In making the decision on whether or not to object to the placement of the defendant in a special alternative incarceration unit as required by section 34a(4) of the corrections code of 1953, 1953 PA 232, MCL 791.234a, the sentencing judge or the judge's successor shall review an impact statement submitted by the victim under section 14.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.764 Impact statement generally.**

Sec. 14. The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14. A victim's written statement shall upon the victim's request, be included in the presentence investigation report.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.765 Oral impact statement at sentencing.**

Sec. 15. The victim has the right to appear and make an oral impact statement at the sentencing of the defendant. If the victim is physically or emotionally unable to make the oral impact statement, the victim may designate any other person 18 years of age or older who is neither the defendant nor incarcerated to make the statement on his or her behalf. The other person need not be an attorney.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.766 "Victim" defined; order of restitution generally; order of restitution as condition of probation or parole; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.**

Sec. 16. (1) As used in this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime. As used in subsections (2), (3), (6), (8), (9), and (13) only, victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of a crime.

(2) Except as provided in subsection (8), when sentencing a defendant convicted of a crime, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. For an offense that is resolved by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.

(3) If a crime results in damage to or loss or destruction of property of a victim of the crime or results in the seizure or impoundment of property of a victim of the crime, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(c) Pay the costs of the seizure or impoundment, or both.



(4) If a crime results in physical or psychological injury to a victim, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the reasonably determined cost of medical and related professional services and devices actually incurred and reasonably expected to be incurred relating to physical and psychological care.

(b) Pay an amount equal to the reasonably determined cost of physical and occupational therapy and rehabilitation actually incurred and reasonably expected to be incurred.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the crime.

(d) Pay an amount equal to the reasonably determined cost of psychological and medical treatment for members of the victim's family actually incurred and reasonably expected to be incurred as a result of the crime.

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the crime or, if homemaking or child care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the crime for that homemaking and child care, based on the rates in the area for comparable services.

(f) Pay an amount equal to the cost of actual funeral and related services.

(g) If the deceased victim could be claimed as a dependent by his or her parent or guardian on the parent's or guardian's federal, state, or local income tax returns, pay an amount equal to the loss of the tax deduction or tax credit. The amount of reimbursement shall be estimated for each year the victim could reasonably be claimed as a dependent.

(h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.

(5) If a crime resulting in bodily injury also results in the death of a victim or serious impairment of a body function of a victim, the court may order up to 3 times the amount of restitution otherwise allowed under this section. As used in this subsection, "serious impairment of a body function of a victim" includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand or foot or use of a hand or foot.

(c) Loss of an eye or use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of a body organ.

(6) If the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money.

(7) If the victim is deceased, the court shall order that the restitution be made to the victim's estate.

(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the crime. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action.

(9) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victim services commission made after an order of restitution under this section.

(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(12) Subject to subsection (18), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(15) If the court determines that a juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard the court may order the parent or parents having supervisory responsibility for the juvenile at the time of the acts upon which an order of restitution is based to pay any portion of the restitution ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay restitution as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection:

(a) "Juvenile" means a person within the court's jurisdiction under section 2d or 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d and 712A.4.

(b) "Parent" does not include a foster parent.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

(18) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires. If the probation officer determines at any review that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been

paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

(19) If a defendant who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the defendant is remanded to the department's jurisdiction.

(20) The court shall not impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing an order of restitution.

(21) If a person or entity entitled to restitution under this section cannot be located, refuses to claim the restitution within 2 years after the date on which he or she could have claimed the restitution, or refuses to accept the restitution, the restitution to which that person or entity is entitled shall be deposited in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a person or entity entitled to that restitution may claim that restitution any time by applying to the court that originally ordered and collected it. The court shall notify the crime victim services commission of the application and the commission shall approve a reduction in the court's revenue transmittal to the crime victim's rights fund equal to the restitution owed to the person or entity. The court shall use the reduction to reimburse that restitution to the person or entity.

(22) The court may amend an order of restitution entered under this section on a motion by the prosecuting attorney, the victim, or the defendant based upon new information related to the injury, damages, or loss for which the restitution was ordered.

(23) A court that receives notice that a defendant who has an obligation to pay restitution under this section has declared bankruptcy shall forward a copy of that notice to the prosecuting attorney. The prosecuting attorney shall forward the notice to the victim at the victim's last known address.

(24) If the victim is a minor, the order of restitution shall require the defendant to pay to a parent of the victim an amount that is determined to be reasonable for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:

- (a) Homemaking and child care expenses.
- (b) Income loss not ordered to be paid under subsection (4)(h).
- (c) Mileage.
- (d) Lodging or housing.
- (e) Meals.
- (f) Any other cost incurred in exercising the rights of the victim or a parent under this act.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1986, Act 234, Imd. Eff. Oct. 6, 1986;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 121, Eff. May 1, 1996;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 1998, Act 232, Imd. Eff. July 3, 1998;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

### **780.766a Fines, costs, and assessments or payments other than victim payments; allocation of payments; priority; "victim payment" defined.**

Sec. 16a. (1) If a person is subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments ordered to be paid in that proceeding shall be allocated as provided in this section. If a person is subject to fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in more than 1 proceeding in a court and if a person making a payment on the fines, costs, restitution, assessments, probation or parole supervision fees, or other payments does not indicate the proceeding for which the payment is made, the court shall first apply the money paid to a proceeding in which there is unpaid restitution to be allocated as provided in this section.

(2) Except as otherwise provided in this subsection, if a person is subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of each payment collected by the court from that person shall be applied to payment of victim payments, and the balance shall be applied to payment of fines, costs, supervision fees, and other assessments or payments. If a person making a payment indicates that the payment is to be applied to victim payments, or if the payment is received as a result of a wage assignment under section 16 or from the department of corrections or sheriff under section 17a, the payment shall first be applied to victim payments. If any fines, costs, supervision fees, or other assessments or payments remain unpaid after all of the victim payments have been paid, any additional money collected shall be applied to payment of those fines, costs, supervision fees, or other assessments or payments. If any victim payments remain unpaid after all of the fines, costs, supervision fees, or other assessments or payments have been paid, any additional money collected shall be applied to payment of those victim payments.

(3) In cases involving prosecutions for violations of state law, money allocated under subsection (2) for

payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of other costs.

(c) Payment of fines.

(d) Payment of probation or parole supervision fees.

(e) Payment of assessments and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss.

(4) In cases involving prosecutions for violations of local ordinances, money allocated under subsection (2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of fines and other costs.

(c) Payment of assessments and other payments.

(5) As used in this section, "victim payment" means restitution ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss; or an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

**History:** Add. 2000, Act 503, Eff. June 1, 2001;—Am. 2003, Act 98, Eff. Oct. 1, 2003;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.767 Amount of restitution; order; consideration; order to obtain information; disclosures; resolving dispute as to amount and type of restitution.**

Sec. 17. (1) In determining the amount of restitution to order under section 16, the court shall consider the amount of the loss sustained by any victim as a result of the offense.

(2) The court may order the probation officer to obtain information pertaining to the amounts of loss described in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1996, Act 562, Eff. June 1, 1997.

#### **780.767a Deductions and payments.**

Sec. 17a. (1) If a defendant who has been sentenced to the department of corrections is ordered to pay restitution under section 16, and if the defendant receives more than \$50.00 in a month, the department of corrections shall deduct 50% of the amount over \$50.00 received by the defendant for payment of the restitution. The department of corrections shall promptly send the deducted money to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the defendant is paroled, transferred to community programs, or discharged on the maximum sentence.

(2) If a defendant who has been sentenced to jail is ordered to pay restitution under section 16, and if the defendant receives more than \$50.00 in a month, the sheriff may deduct 50% of the amount over \$50.00 received by the defendant for payment of the restitution, and 5% of the amount over \$50.00 received by the defendant to be retained by the sheriff as an administrative fee. The sheriff shall promptly send the money deducted for restitution to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the defendant is released to probation or discharged on the maximum sentence.

(3) The department of corrections or sheriff, as applicable, shall notify the defendant and the court in writing of all deductions and payments made under this section. The requirements of this section remain in effect until all of the restitution has been paid. The department of corrections or sheriff shall not enter into any agreement with a defendant that modifies the requirements of this section. An agreement in violation of this subsection is void.

**History:** Add. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

### **780.768 Sale of recollections of thoughts and feelings of convicted person; proceeds to be held in escrow; disposition of proceeds.**

Sec. 18. (1) A person convicted of a crime shall not derive any profit from the sale of any of the following until the victim receives any restitution or compensation ordered for him or her against the defendant, expenses of incarceration are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

- (a) The person's recollections of or thoughts or feelings about the offense committed by the person.
- (b) Memorabilia related to the offense committed by the person.
- (c) The person's property if its value has been enhanced or increased by the person's notoriety.

(2) Upon the conviction of a defendant for a crime involving a victim, and after notice to all interested parties, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that the defendant forfeit all or any part of proceeds received or to be received by the defendant or the defendant's representatives or assignees from any of the following:

(a) Contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment.

(b) The sale of memorabilia relating to the crime.

(c) The sale of property of the defendant, the value of which has been enhanced or increased by the defendant's notoriety arising from the crime.

(3) Proceeds ordered forfeited under subsection (2) shall be held in an escrow account for a period of not more than 5 years.

(4) During the existence of an escrow account created under subsection (3), proceeds in the account shall be distributed in the following priority to satisfy the following:

(a) An order of restitution entered under section 16.

(b) Any civil judgment in favor of the victim against the defendant.

(c) Any reimbursement ordered under the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93, or the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

(d) Fines, costs, and other assessments ordered against the defendant.

(5) A balance remaining in an escrow account created under subsection (3) at the end of the escrow period shall be paid to the crime victim's rights fund created in section 4 of 1989 PA 196, MCL 780.904.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

### **780.768a Notice to victim; explanation of appeal process; rights of victim if conviction reversed.**

Sec. 18a. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the defendant filed an appeal of his or her conviction or sentence or that the prosecuting attorney filed an appeal.

(b) Whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the defendant has been ordered released on bail or other recognizance pending disposition of the appeal, the prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(c) The time and place of any appellate court oral arguments and any changes in the time or place of those arguments.

(d) The result of the appeal. If the conviction is ordered reversed, the sentence is vacated, the case is remanded for a new trial, or the prosecuting attorney's appeal is denied, and if the prosecuting attorney has filed the appropriate notice with the appellate court, the appellate court shall expedite delivery of the relevant document to the prosecuting attorney's office by any means reasonably calculated to give the prosecuting attorney prompt notice. The prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(2) If the prosecuting attorney is not successful in notifying the victim of an event described in subsection (1) within the period set forth in that subsection, the prosecuting attorney shall notify the victim of that event as soon as possible by any means reasonably calculated to give the victim prompt actual notice.

(3) The prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(4) If the case is returned to the trial court for further proceedings or a new trial, the victim has the same rights as previously requested during the proceedings that led to the appeal.



**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.768b Early termination of probation; notice to victim.**

Sec. 18b. If a defendant is sentenced to probation with a condition for the protection of the victim and if requested by the victim, the court shall notify the victim by mail if the court orders that the probation be terminated earlier than previously ordered.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.769 Request for notice by victim; exemption of victim's address and telephone number from disclosure.**

Sec. 19. (1) Upon the victim's written request, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for the crime against that victim:

(a) Within 30 days after the request, notice of the sheriff's calculation of the prisoner's earliest release date or the department's calculation of the prisoner's earliest parole eligibility date, with all potential good time or disciplinary credits considered, if the sentence of imprisonment exceeds 90 days.

(b) Notice of the prisoner's transfer or pending transfer to a minimum security facility and the facility's address.

(c) Notice of the prisoner's release or pending release in a community residential program or under furlough; any other transfer to community status; any transfer from 1 community residential program or electronic monitoring program to another; or any transfer from a community residential program or electronic monitoring program to a state correctional facility.

(d) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in section 20.

(e) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole, as provided in section 21.

(f) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21.

(g) Notice of the release of a prisoner 90 days before the date of the prisoner's discharge from prison, unless the notice has been otherwise provided under this article.

(h) Notice of a public hearing under section 44 of the corrections code of 1953, 1953 PA 232, MCL 791.244, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

(i) Notice that a reprieve, commutation, or pardon has been granted.

(j) Notice that a prisoner has had his or her name legally changed while on parole or within 2 years after release from parole.

(k) Notice that a prisoner has been convicted of a new crime.

(l) Notice that a prisoner has been returned from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections upon a request for notice under this section are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.769a Defendant found not guilty by reason of insanity; notice to victim from director of hospital or facility.**

Sec. 19a. (1) On a victim's written request, the director of a hospital or facility where a defendant found not guilty by reason of insanity has been hospitalized or admitted by court order shall notify the victim of the following:

(a) A pending transfer of the defendant to a less secure hospital or facility.

(b) A pending transfer of the defendant to alternative care or treatment, community placement, or aftercare reintegration.

(c) A pending leave, absence, furlough, or other release from confinement for the defendant, whether temporary or permanent.

(2) A notice required by subsection (1) shall be given by any means reasonably calculated to give the victim prompt actual notice.

(3) A victim's address and telephone number maintained by a hospital or facility under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.770 Notice of escape.**

Sec. 20. (1) The person designated in subsections (2) to (4) shall give a victim who requests notice and the prosecuting attorney who is prosecuting or has prosecuted the crime for which a defendant is detained, under sentence, hospitalized, or admitted to a facility immediate notice of the escape of the defendant accused, convicted, imprisoned, hospitalized, or admitted for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If an escape for which a notice under this section is required occurs before sentence is executed or before the defendant is delivered to the department of corrections, hospitalized, or admitted to a facility, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to the victim who requested notice.

(3) If the defendant is confined under a sentence, the notice required under this section shall be given by the chief administrator of the place in which the prisoner is confined.

(4) If the defendant is hospitalized under an order of hospitalization or admitted to a facility under an order of admission, the notice required under this section shall be given by the director of the hospital in which the defendant is hospitalized or by the director of the facility to which the defendant is admitted.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.770a Notice to victim by family independence agency or county juvenile agency; escape by juvenile.**

Sec. 20a. (1) Upon a victim's written request, the family independence agency or county juvenile agency, as applicable, shall make a good faith effort to notify the victim before either of the following occurs:

(a) A juvenile is dismissed from court jurisdiction or discharged from commitment to the family independence agency or county juvenile agency.

(b) A juvenile is transferred from a secure juvenile facility to a nonsecure juvenile facility.

(2) If the family independence agency or county juvenile agency is not successful in notifying the victim before an event described in subsection (1) occurs, it shall notify the victim as soon as possible after that event occurs by any means reasonably calculated to give prompt actual notice.

(3) Upon the victim's written request, the family independence agency or county juvenile agency, as applicable, shall give to the victim notice of a juvenile's escape. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice. If the escape occurs before the juvenile is delivered to the family independence agency or county juvenile agency, the agency in charge of the juvenile's detention shall give notice of the escape to the family independence agency or county juvenile agency, which shall then give notice of the escape to the victim who requested notice.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999.

#### **780.770b Notice of review hearing.**

Sec. 20b. Upon the victim's request, the prosecuting attorney shall give the victim notice of a review hearing conducted pursuant to section 1b of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.1b of the Michigan Compiled Laws. The victim has the right to make a statement at the hearing, submit a written statement for use at the hearing, or both.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.771 Right of victim to address or submit statement to parole board or other panel; notice of pending review and victim's rights; representation of counsel; notice; exemption from disclosure.**

Sec. 21. (1) A victim has the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel



reaches its decision but not later than 14 days after the board or panel has reached its decision. The notice shall include a statement of the victim's right to appeal a parole decision, as allowed under section 34 of the corrections code of 1953, 1953 PA 232, MCL 791.234.

(4) A record of an oral statement or a written statement made under subsection (1) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.772 Notice of final disposition of case.**

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition of the case, notify the victim in writing of the final disposition of the case.

**History:** 1985, Act 87, Eff. Oct. 9, 1985.

#### **780.772a Notice to victim of defendant's application to have conviction for assaultive crime set aside; "assaultive crime" defined.**

Sec. 22a. If a defendant applies to have a conviction for an assaultive crime set aside under Act No. 213 of the Public Acts of 1965, being sections 780.621 to 780.624 of the Michigan Compiled Laws, and if the name of the victim is known by the prosecuting attorney, the prosecuting attorney shall give to the victim of the assaultive crime written notice of the application and forward a copy of the application to the victim. The notice shall be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under Act No. 213 of the Public Acts of 1965 concerning that conviction and make a written or oral statement. As used in this section, "assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 770.9a of the Michigan Compiled Laws.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.773 Cause of action not created.**

Sec. 23. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

#### **780.774 Failure to provide right, privilege, or notice to victim.**

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

#### **780.775 Effective date of article; applicability.**

Sec. 25. (1) This article shall take effect October 9, 1985.

(2) This article shall apply only to crimes committed on or after October 9, 1985.

**History:** 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

### **ARTICLE 2**

#### **780.781 Definitions; designation of person to act in place of victim; rights and privileges.**

Sec. 31. (1) Except as otherwise defined in this article, as used in this article:

(a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(b) "Court" means the family division of circuit court.

(c) "Designated case" means a case designated as a case in which the juvenile is to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

(d) "Juvenile" means an individual alleged or found to be within the court's jurisdiction under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an offense, including, but not limited to, an individual in a designated case.

(e) "Juvenile facility" means a county facility, an institution operated as an agency of the county or the court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed or in which a juvenile is detained.

(f) "Offense" means 1 or more of the following:

(i) A violation of a penal law of this state for which a juvenile offender, if convicted as an adult, may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony.

(ii) A violation of section 81 (assault and battery, including domestic violence), 81a (assault; infliction of serious injury, including aggravated domestic violence), 115 (breaking and entering or illegal entry), 136b(6) (child abuse in the fourth degree), 145 (contributing to the neglect or delinquency of a minor), 145d (using the internet or a computer to make a prohibited communication), 233 (intentionally aiming a firearm without malice), 234 (discharge of a firearm intentionally aimed at a person), 235 (discharge of an intentionally aimed firearm resulting in injury), 335a (indecent exposure), or 411h (stalking) of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115, 750.136b, 750.145, 750.145d, 750.233, 750.234, 750.235, 750.335a, and 750.411h.

(iii) A violation of section 601b(2) (injuring a worker in a work zone) or 617a (leaving the scene of a personal injury accident) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b and 257.617a, or a violation of section 625 (operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with unlawful blood alcohol content) of that act, MCL 257.625, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(iv) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 33 of the former 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in physical injury or death to any individual.

(v) A violation of section 80176(1) or (3) (operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with unlawful blood alcohol content) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

(vi) A violation of a local ordinance substantially corresponding to a law enumerated in subparagraphs (i) to (v).

(vii) A violation described in subparagraphs (i) to (vi) that is subsequently reduced to a violation not included in subparagraphs (i) to (vi).

(g) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(h) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(i) "Victim" means any of the following:

(i) A person who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of an offense, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following individuals other than the juvenile if the victim is deceased:

(A) The spouse of the deceased victim.

(B) A child of the deceased victim if the child is 18 years of age or older and sub-subparagraph (A) does not apply.

(C) A parent of a deceased victim if sub-subparagraphs (A) and (B) do not apply.

(D) The guardian or custodian of a child of a deceased victim if the child is less than 18 years of age and sub-subparagraphs (A) to (C) do not apply.

(E) A sibling of the deceased victim if sub-subparagraphs (A) to (D) do not apply.

(F) A grandparent of the deceased victim if sub-subparagraphs (A) to (E) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is mentally or emotionally unable to participate in the legal process if he or she is neither the defendant nor incarcerated.

(2) If a victim as defined in subsection (1)(i)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse, child 18 years of age or older, parent, sibling, grandparent, or any other person 18 years of age or older who is neither the defendant nor incarcerated to act in his or her place while the physical or emotional disability continues. The victim shall provide the prosecuting attorney with the name of the person who is to act in his or her place. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with an offense arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims under this article.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 82, Imd. Eff. Feb. 27, 1996;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.781a Duty to provide notice to victim; furnishing information or records.**

Sec. 31a. The duty under this chapter and under section 24 of article I of the state constitution of 1963 of a court, the department of corrections, the department of human services, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. In performing a duty under this chapter or under section 24 of article I of the state constitution of 1963, the court, department of corrections, department of human services, county sheriff, or prosecuting attorney may furnish information or records to the victim that would otherwise be closed to public inspection, including information or records described in section 14 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.14.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.782 Information to be given victim.**

Sec. 32. Within 24 hours after the initial contact between the victim of a reported offense and the law enforcement agency having the responsibility for investigating that offense, that agency shall give to the victim the following information in writing:

- (a) The availability of emergency and medical services, if applicable.
- (b) The availability of victim's compensation benefits and the address of the crime victims compensation board.
- (c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.
- (d) The following statements:
  - "If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them."
  - "If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case."

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.783 Return of property to victim.**

Sec. 33. (1) The law enforcement agency having responsibility for investigating a reported offense shall promptly return to the victim property belonging to that victim that is taken in the course of the investigation, except as provided in subsections (2) to (4).

- (2) The agency shall not return property that is contraband.
- (3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.
- (4) The agency shall retain as evidence any weapon used in the commission of the offense and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.783a Statement on complaint or petition.**

Sec. 33a. The investigating agency or prosecuting attorney that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense described in section 31(1)(d)(iii), (iv), or (v), or a local ordinance substantially corresponding to a juvenile offense described in section 31(1)(d)(iii), (iv), or (v), shall place a statement on the complaint or petition that the offense resulted in damage to another individual's property or physical injury or death to another individual.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.783b Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.**

Sec. 33b. (1) To facilitate compliance with 15 USC 1681g, a bona fide victim of identity theft is entitled to file a police report with a law enforcement agency in a jurisdiction where the alleged violation of identity theft may be prosecuted as provided under section 10c of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a copy of that report from that law enforcement agency.

(2) As used in this section, "identity theft" means that term as defined in section 3 of the identity theft protection act.

**History:** Add. 2004, Act 456, Eff. Mar. 1, 2005.

**780.784 Separate statement.**

Sec. 34. The investigating agency that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense shall file with the complaint or petition a separate statement listing any known victims of the juvenile offense and their addresses and phone numbers. This separate statement shall not be a matter of public record.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

**780.785 Victim to be given telephone number of juvenile facility and notice of release; motion to detain juvenile in facility.**

Sec. 35. (1) If the juvenile has been placed in a juvenile facility, not later than 48 hours after the preliminary hearing of that juvenile for a juvenile offense, the prosecuting attorney or, pursuant to an agreement under section 48a, the court shall give to the victim the telephone number of the juvenile facility and notice that the victim may contact the juvenile facility to determine whether the juvenile has been released from custody. The law enforcement agency having responsibility for investigating the crime shall promptly notify the victim of the arrest or pretrial release of the juvenile, or both, if the victim requests or has requested that information. If the juvenile is released from custody by the sheriff or juvenile facility, the sheriff or juvenile facility shall notify the law enforcement agency having responsibility for investigating the crime.

(2) Based upon any credible evidence of acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the juvenile be detained in a juvenile facility.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.786 Court jurisdiction; notices to victim; consultation with prosecuting attorney; persons to be informed of victim's current address and telephone number.**

Sec. 36. (1) The court shall accept a petition submitted by a prosecuting attorney that seeks to invoke the court's jurisdiction for a juvenile offense, unless the court finds on the record that the petitioner's allegations are insufficient to support a claim of jurisdiction under section 2(a)(1) of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(2) Within 72 hours after the prosecuting attorney files or submits a petition seeking to invoke the court's jurisdiction for an offense, the prosecuting attorney, or the court pursuant to an agreement under section 48a, shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in processing a juvenile case, including the fact that a juvenile may be tried in the same manner as an adult in a designated case or waived to the court of general criminal jurisdiction.

(b) A specific list of the rights and procedures under this article.

(c) A convenient means for the victim to notify the prosecuting attorney that the victim chooses to exercise his or her rights under this article.

(d) Details and eligibility requirements for compensation from the crime victim services commission under 1976 PA 223, MCL 18.351 to 18.368.

(e) Suggested procedures if the victim is subjected to threats or intimidation.

(f) The person to contact for further information.

(3) If the victim requests, the prosecuting attorney, or the court pursuant to an agreement under section 48a, shall give the victim notice of any scheduled court proceedings and any changes in that schedule.

(4) If the juvenile has not already entered a plea of admission or no contest to the original charge at the preliminary hearing, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of the offense, including the victim's views about dismissal, waiver, and pretrial diversion programs, before finalizing any agreement to reduce the original charge.

(5) A victim who receives a notice under subsection (1) and chooses to receive any notice or exercise any right under this article shall keep the following persons informed of the victim's current address and telephone number:

(a) The prosecuting attorney, or the court if an agreement under section 48a exists.

(b) If the juvenile is made a public ward, the family independence agency or county juvenile agency, as applicable.

(c) If the juvenile is imprisoned, the department of corrections or the sheriff as directed by the prosecuting attorney.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.786a Speedy trial.**

Sec. 36a. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is declared by the prosecuting attorney to be any of the following:

(a) A victim of child abuse, including sexual abuse or any other assaultive crime.

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(c) Sixty-five years of age or older.

(d) An individual with a disability that inhibits the individual's ability to attend court or participate in the proceedings.

(2) The court, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 14 days after the motion is filed. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 21 days from the date of the hearing.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.786b Removal of case from adjudicative process; notice required; hearing; consultation of victim with prosecuting attorney.**

Sec. 36b. (1) Except for a dismissal based upon a judicial finding on the record that the petition and the facts supporting it are insufficient to support a claim of jurisdiction under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, a case involving the alleged commission of an offense, as defined in section 31, by a juvenile shall not be diverted, placed on the consent calendar, or made subject to any other prepetition or preadjudication procedure that removes the case from the adjudicative process unless the court gives written notice to the prosecuting attorney of the court's intent to remove the case from the adjudicative process and allows the prosecuting attorney the opportunity to address the court on that issue before the case is removed from the adjudicative process. Before any formal or informal action is taken, the prosecutor shall give the victim notice of the time and place of the hearing on the proposed removal of the case from the adjudicative process. The victim has the right to attend the hearing and to address the court at the hearing. As part of any other order removing any case from the adjudicative process, the court shall order the juvenile or the juvenile's parents to provide full restitution as provided in section 44.

(2) Before finalizing any informal disposition, preadjudication, or expedited procedure, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about that manner of disposing of the case.

**History:** Add. 2000, Act 503, Eff. June 1, 2001.

#### **780.787 Separate waiting area; other safeguards.**

Sec. 37. The court shall provide a waiting area for the victim separate from the juvenile, the juvenile's relatives, and the juvenile's witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the juvenile, the juvenile's relatives, and the juvenile's witnesses during court proceedings.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.788 Testimony not to be compelled; hearing; exemption from disclosure; exception.**

Sec. 38. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move or, in the absence of a prosecuting attorney, the victim may request that the victim or any other witness not be compelled to testify at any court hearing for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) Pursuant to section 24 of article I of the state constitution of 1963, guaranteeing to crime victims the right to be treated with respect for their dignity and privacy, all of the following information and visual representations of a victim are exempt from disclosure under the freedom of information act, 1976 PA 442,



MCL 15.231 to 15.246:

- (a) The home address, home telephone number, work address, and work telephone number of the victim.
- (b) A picture, photograph, drawing, or other visual representation, including any film, videotape, or digitally stored image of the victim.
- (3) Subsection (2) shall not preclude the release of information to a victim advocacy organization or agency for the purpose of providing victim services.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.789 Presence of victim at hearing; sequestering of victim.**

Sec. 39. The victim has the right to be present throughout the entire contested adjudicative hearing or waiver hearing of the juvenile, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court, for good cause shown, may order the victim to be sequestered until the victim first testifies. The victim shall not be sequestered after he or she first testifies.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.790 Discharge or discipline of victim or victim representative by employer or employer's agent; misdemeanor; contempt; "victim representative" defined.**

Sec. 40. (1) An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(2) An employer or an employer's agent who disciplines or discharges a victim representative from employment, causes a victim representative to be disciplined or discharged from employment or threatens to discipline or discharge a victim representative from employment because that victim representative attends or desires to attend court to be present during the testimony of the victim, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(3) As used in this section, "victim representative" means any of the following:

- (a) A guardian or custodian of a child of a deceased victim if the child is less than 18 years of age.
- (b) A parent, guardian, or custodian of a victim of an offense that if committed by an adult would be an assaultive crime if the victim of the offense is less than 18 years of age.
- (c) A person who has been designated under section 31(2) to act in place of a victim of an offense that if committed by an adult would be an assaultive crime during the duration of the victim's physical or emotional disability.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994.

#### **780.791 Additional notices to victim.**

Sec. 41. (1) The prosecuting attorney, or, pursuant to an agreement under section 48a, the court, upon and in accordance with the request of the victim, shall give the victim notice of all of the following:

- (a) The offenses for which the juvenile was adjudicated or convicted.
- (b) The victim's right to make an impact statement at the disposition hearing or sentencing.
- (c) The time and place of the disposition or sentencing proceeding.
- (2) If a report is to be prepared for the juvenile's disposition or for a sentencing in a proceeding that is a designated case, the person preparing the report shall give notice to the victim of all of the following:
  - (a) The victim's right to make an impact statement for use in preparing the report.
  - (b) The address and telephone number of the person who is to prepare the report.
  - (c) The fact that the report and any statement of the victim included in the report will be made available to the juvenile unless exempted from disclosure by the court.
- (3) A notice under subsection (1) or (2) shall inform the victim that his or her impact statement may be oral or written and may include, but shall not be limited to, any of the following:
  - (a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.
  - (b) An explanation of the extent of any economic loss or property damage suffered by the victim.
  - (c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.
  - (d) The victim's recommendation for an appropriate disposition or sentence.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.791a Providing victim with form to receive certain notices.**

Sec. 41a. When a juvenile is ordered to be placed in a juvenile facility or sentenced to probation or to a term of imprisonment, the prosecuting attorney, or the court pursuant to an agreement under section 48a, shall provide the victim with a form the victim may submit to receive the notices from the court, prosecuting attorney, department of human services, or county juvenile agency, as applicable, provided for under section 45a or 48. The form shall include the address of the court, prosecuting attorney, department of human services, county juvenile agency, department of corrections, or the sheriff, as applicable, to which the form may be sent.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.792 Report; impact statement.**

Sec. 42. (1) If a report is to be prepared for the juvenile's disposition or for a sentencing in a proceeding that is a designated case, the victim has the right to submit a written or oral impact statement to the person preparing the report for that person's use in preparing the report.

(2) If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days prior to the disposition or sentencing.

(3) Upon the victim's request, a victim's written statement under this section shall be included in the report.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.793 Appearance and statement of victim; notice of disposition.**

Sec. 43. (1) The victim has the right to appear and make an oral impact statement at the juvenile's disposition or sentencing. If the victim is physically or emotionally unable to make the oral impact statement, the victim may designate any other person 18 years of age or older who is neither the defendant nor incarcerated to make the statement on his or her behalf. The other person need not be an attorney.

(2) Upon request, the victim shall be notified by the prosecuting attorney, or, pursuant to an agreement under section 48a, the court of the disposition of the juvenile's offense not more than 30 days after the disposition is made.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.794 Definitions; order of restitution to be made by juvenile.**

Sec. 44. (1) As used in this section only:

(a) "Offense" means a violation of a penal law of this state or a violation of an ordinance of a local unit of government of this state punishable by imprisonment or by a fine that is not a civil fine.

(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of an offense. As used in subsections (2), (3), (6), (8), (9), and (13) only, victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of an offense.

(2) Except as provided in subsection (8), at the dispositional hearing or sentencing for an offense, the court shall order, in addition to or in lieu of any other disposition or penalty authorized by law, that the juvenile make full restitution to any victim of the juvenile's course of conduct that gives rise to the disposition or conviction or to the victim's estate. For an offense that is resolved informally by means of a consent calendar diversion or by another informal method that does not result in a dispositional hearing, by assignment to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.

(3) If an offense results in damage to or loss or destruction of property of a victim of the offense or results in the seizure or impoundment of property of a victim of the offense, the order of restitution shall require that the juvenile do 1 or more of the following, as applicable:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of disposition.

(c) Pay the costs of the seizure or impoundment, or both.



(4) If an offense results in physical or psychological injury to a victim, the order of restitution shall require that the juvenile do 1 or more of the following, as applicable:

(a) Pay an amount equal to the reasonably determined cost of medical and related professional services and devices actually incurred and reasonably expected to be incurred relating to physical and psychological care.

(b) Pay an amount equal to the reasonably determined cost of physical and occupational therapy and rehabilitation actually incurred and reasonably expected to be incurred.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the reasonably determined cost of psychological and medical treatment for members of the victim's family actually incurred or reasonably expected to be incurred as a result of the offense.

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred or reasonably expected to be incurred as a result of the offense or, if homemaking or child care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the offense for that homemaking and child care, based on the rates in the area for comparable services.

(f) Pay an amount equal to the cost of actual funeral and related services.

(g) If the deceased victim could be claimed as a dependent by his or her parent or guardian on the parent's or guardian's federal, state, or local income tax returns, pay an amount equal to the loss of the tax deduction or tax credit. The amount of reimbursement shall be estimated for each year the victim could reasonably be claimed as a dependent.

(h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.

(5) If an offense resulting in bodily injury also results in the death of a victim or serious impairment of a body function of a victim, the court may order up to 3 times the amount of restitution otherwise allowed under this section. As used in this subsection, "serious impairment of a body function of a victim" includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand or foot or use of a hand or foot.

(c) Loss of an eye or use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of a body organ.

(6) If the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money.

(7) If the victim is deceased, the court shall order that the restitution be made to the victim's estate.

(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the offense. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action.

(9) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victim services commission made after an order of restitution under this section.

(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the juvenile make restitution under this section within a specified period or in specified installments.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

(12) Subject to subsection (18), a juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the individual ordered to pay restitution for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained or imprisoned for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(15) If the court determines that the juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile at the time of the acts upon which an order of restitution is based to pay any portion of the restitution ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay restitution as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

(18) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed juvenile to make regularly scheduled restitution payments. If the juvenile misses 2 or more regularly scheduled payments, the court shall order the juvenile to execute a wage assignment to pay the restitution. The juvenile caseworker or probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the juvenile caseworker or probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires. If the juvenile caseworker or probation officer determines at any review the restitution is not being paid as ordered, the juvenile caseworker or probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage, and any reasons for the arrearage known by the juvenile caseworker or probation officer. The juvenile caseworker or probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

(19) If the court determines that an individual who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the court determines that the individual is remanded to the department's jurisdiction.

(20) The court shall not impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing an order of restitution.

(21) If a person or entity entitled to restitution under this section cannot be located, refuses to claim the restitution within 2 years after the date on which he or she could have claimed the restitution, or refuses to accept the restitution, the restitution to which that person or entity is entitled shall be deposited in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a person or entity entitled to that restitution may claim that restitution any time by applying to the court that originally ordered and collected it. The court shall notify the crime victim services commission of the application and the commission shall approve a reduction in the court's revenue transmittal to the crime victim's rights fund equal to the restitution owed to the person or entity. The court shall use the reduction to reimburse that restitution to the person or entity.

(22) The court may amend an order of restitution entered under this section on a motion by the prosecuting attorney, the victim, or the defendant based upon new information related to the injury, damages, or loss for which the restitution was ordered.

(23) A court that receives notice that a defendant who has an obligation to pay restitution under this section has declared bankruptcy shall forward a copy of that notice to the prosecuting attorney. The prosecuting attorney shall forward the notice to the victim at the victim's last known address.

(24) If the victim is a minor, the order of restitution shall require the defendant to pay to a parent of the victim an amount that is determined to be reasonable for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:

- (a) Homemaking and child care expenses.
- (b) Income loss not ordered to be paid under subsection (4)(h).
- (c) Mileage.
- (d) Lodging or housing.
- (e) Meals.
- (f) Any other cost incurred in exercising the rights of the victim or a parent under this act.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 121, Eff. May 1, 1996;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.794a Allocation of payment from juveniles.**

Sec. 44a. (1) If a juvenile is subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that juvenile for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments ordered to be paid in that proceeding shall be allocated as provided in this section. If a person is subject to fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in more than 1 proceeding in a court and if a person making a payment on the fines, costs, restitution, assessments, probation or parole supervision fees, or other payments does not indicate the proceeding for which the payment is made, the court shall first apply the money paid to a proceeding in which there is unpaid restitution to be allocated as provided in this section.

(2) Except as otherwise provided in this subsection, if a juvenile is subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of each payment collected by the court from that juvenile shall be applied to payment of victim payments, and the balance shall be applied to payment of fines, costs, supervision fees, and other assessments or payments. If a person making a payment indicates that the payment is to be applied to victim payments, or if the payment is received as a result of a wage assignment under section 44 or from the department of corrections, sheriff, department of human services, or county juvenile agency under section 46b, the payment shall first be applied to victim payments. If any fines, costs, supervision fees, or other assessments or payments remain unpaid after all of the victim payments have been paid, any additional money collected shall be applied to payment of those fines, costs, supervision fees, or other assessments or payments. If any victim payments remain unpaid after all of the fines, costs, supervision fees, or other assessments or payments have been paid, any additional money collected shall be applied to payment of those victim payments.

(3) In cases involving prosecutions for violations of state law, money allocated under subsection (2) for payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments shall be applied in the following order of priority:

- (a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.
- (b) Payment of other costs.

- (c) Payment of fines.
- (d) Payment of probation or parole supervision fees.
- (e) Payment of assessments and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss.

(4) In cases involving prosecutions for violations of local ordinances, money allocated under subsection (2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of fines and other costs.

(c) Payment of assessments and other payments.

(5) As used in this section, "victim payment" means restitution ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss; or an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

**History:** Add. 2000, Act 503, Eff. June 1, 2001;—Am. 2003, Act 98, Eff. Oct. 1, 2003;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

### **780.795 Factors in determining order of restitution by juvenile.**

Sec. 45. (1) In determining the amount of restitution to order under section 44, the court shall consider the amount of the loss sustained by any victim as a result of the offense. In determining whether to order the juvenile's supervisory parent to pay restitution under section 44(15), the court shall consider the financial resources of the juvenile's supervisory parent and the other factors specified in section 44(16).

(2) The court may order the person preparing a report for the purpose of disposition to obtain information pertaining to the factors set forth in subsection (1). That person shall include the information collected in the disposition report or in a separate report, as the court directs.

(3) The court shall disclose to the juvenile, the juvenile's supervisory parent, and the prosecuting attorney all portions of the disposition or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the juvenile's supervisory parent and the other factors specified in section 44(16) shall be on the supervisory parent.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 562, Eff. June 1, 1997.

### **780.795a Early termination of probation of juvenile; notice to victim.**

Sec. 45a. If a juvenile is sentenced to probation with a condition for the protection of the victim and if requested by the victim, the court shall notify the victim by mail if the court orders that the probation be terminated earlier than previously ordered.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

### **780.796 Additional notice to victim; rights of victim in further proceedings or new trial.**

Sec. 46. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the juvenile filed an appeal of his or her adjudication, conviction, disposition, or sentence or the prosecuting attorney filed an appeal.

(b) Whether the juvenile has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the juvenile has been ordered released on bail or other recognizance pending disposition of the appeal, the prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(c) The time and place of any appellate court oral arguments and any changes in the time or place of those arguments.

(d) The result of the appeal. If the disposition or conviction is ordered reversed, the sentence is vacated, the case is remanded for a new trial, or the prosecuting attorney's appeal is denied, and if the prosecuting attorney has filed the appropriate notice with the appellate court, the appellate court shall expedite delivery of the relevant document to the prosecuting attorney's office by any means reasonably calculated to give the prosecuting attorney prompt notice. The prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(2) If the prosecuting attorney is not successful in notifying the victim of an event described in subsection (1) within the period set forth in that subsection, the prosecuting attorney shall notify the victim of that event as soon as possible by any means reasonably calculated to give the victim prompt actual notice.

(3) The prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(4) If the case is returned to the court for further proceedings or a new trial, the victim has the same rights as previously requested during the proceedings that led to the appeal.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.796a Notice to victim of juvenile's application to have conviction or adjudication for certain offenses set aside; "assaultive crime" and "serious misdemeanor" defined.**

Sec. 46a. (1) If a juvenile applies to have a conviction for an assaultive crime or serious misdemeanor or an adjudication for an offense that if committed by an adult would be an assaultive crime or a serious misdemeanor set aside under section 18e of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18e, and the prosecuting attorney knows the victim's name, the prosecuting attorney shall give the victim of the offense written notice of the application and forward a copy of the application to the victim. The notice shall be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under section 18e of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18e, concerning that adjudication and make a written or oral statement.

(2) As used in this section:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(b) "Serious misdemeanor" means that term as defined in section 61.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.796b Deductions and payments.**

Sec. 46b. (1) If a juvenile who has been sentenced to the department of corrections is ordered to pay restitution under section 44, and if the juvenile receives more than \$50.00 in a month, the department of corrections shall deduct 50% of the amount over \$50.00 received by the juvenile for payment of the restitution. The department of corrections shall promptly send the deducted money to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the juvenile is paroled, transferred to community programs, or discharged on the maximum sentence.

(2) If a juvenile who has been sentenced to jail is ordered to pay restitution under section 44, and if the juvenile receives more than \$50.00 in a month, the sheriff may deduct 50% of the amount over \$50.00 received by the juvenile for payment of the restitution, and 5% of the amount over \$50.00 received by the juvenile to be retained by the sheriff as an administrative fee. The sheriff shall promptly send the money deducted for restitution to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the juvenile is released to probation or discharged on the maximum sentence.

(3) If a juvenile who has been placed in a juvenile facility is ordered to pay restitution under section 44, and if the juvenile receives more than \$50.00 in a month, the department of human services or the county juvenile agency, as applicable, may deduct 50% of the amount over \$50.00 received by the juvenile for payment of the restitution. The department of human services or the county juvenile agency, as applicable, shall promptly send the deducted money to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the juvenile is released from the juvenile facility.

(4) The department of corrections, sheriff, department of human services, or county juvenile agency, as applicable, shall notify the juvenile and the court in writing of all deductions and payments made under this section. The requirements of this section remain in effect until all of the restitution has been paid. The department of corrections, sheriff, department of human services, or county juvenile agency shall not enter into any agreement with a juvenile that modifies the requirements of this section. An agreement in violation of this subsection is void.

**History:** Add. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.797 Profit from sale of recollections of thoughts and feelings with regard to offense; juvenile offense; forfeiture; escrow; distribution of proceeds.**



Sec. 47. (1) A juvenile adjudicated for an offense shall not derive any profit from the sale of any of the following until the victim receives any restitution or compensation ordered for him or her against the juvenile, expenses of detention are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

(a) The juvenile's recollections of or thoughts or feelings about the offense committed by the juvenile.

(b) Memorabilia related to the offense committed by the juvenile.

(c) The juvenile's property if its value has been enhanced or increased by the juvenile's notoriety.

(2) Upon the disposition of a juvenile offense involving a victim, and after notice to all interested parties, an attorney for the county in which the disposition occurred or the attorney general may petition the court in which the disposition occurred to order that the juvenile forfeit all or any part of proceeds received or to be received by the juvenile or the juvenile's representatives or assignees from any of the following:

(a) Contracts relating to the depiction of the offense or the juvenile's recollections, thoughts, or feelings about the offense, in books, magazines, media entertainment, or live entertainment.

(b) The sale of memorabilia relating to the offense.

(c) The sale of property of the juvenile, the value of which has been enhanced or increased by the juvenile's notoriety arising from the crime.

(3) Proceeds ordered forfeited under subsection (2) shall be held in an escrow account for a period of not more than 5 years.

(4) During the existence of an escrow account created under subsection (3), proceeds in the account shall be distributed in the following priority to satisfy the following:

(a) An order of restitution entered under section 44.

(b) Any civil judgment in favor of the victim against the juvenile.

(c) Any reimbursement for detention ordered under section 18 of chapter XIII of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(d) Fines, costs, and other assessments ordered against the juvenile.

(5) A balance remaining in an escrow account created under subsection (3) at the end of the escrow period shall be paid to the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.798 Notice to victim by court, family independence agency or county juvenile agency, and prosecuting attorney.**

Sec. 48. (1) Upon the victim's written request, the court or the family independence agency or county juvenile agency, as applicable, shall make a good faith effort to notify the victim before any of the following occurs:

(a) The juvenile is dismissed from court jurisdiction or discharged from commitment to the family independence agency or county juvenile agency.

(b) The juvenile is transferred from a juvenile facility to any other juvenile facility.

(c) The juvenile has his or her name legally changed while under the court's jurisdiction or within 2 years after discharge from the court's jurisdiction.

(d) The juvenile is detained for having committed an act which, if committed by an adult, would be a criminal violation.

(2) If the court, family independence agency, or county juvenile agency is not successful in notifying the victim before an event described in subsection (1)(a), (b), or (c) occurs, it shall notify the victim as soon as possible after that event occurs.

(3) Upon the victim's written request, the family independence agency, county juvenile agency, or court shall give to the victim notice of a juvenile's escape from a secure detention or treatment facility. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice.

(4) Upon the victim's written request, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a juvenile who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for the offense against that victim:

(a) Within 30 days after the request, notice of the sheriff's calculation of the juvenile's earliest release date or the department's calculation of the juvenile's earliest parole eligibility, with all potential good time or disciplinary credits considered, if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice of the juvenile's transfer or pending transfer to a minimum security facility and the facility's address.



(c) Notice of the juvenile's release or pending release in a community residential program, under furlough, or any other transfer to community status; any transfer from 1 community residential program or electronic monitoring program to another; or any transfer from a community residential program or electronic monitoring program to a state correctional facility.

(d) Notice of the escape of the juvenile accused, convicted, or imprisoned for committing an offense against the victim.

(e) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the juvenile's release on parole.

(f) Notice of the decision of the parole board, or any other panel having authority over the juvenile's release on parole, after a parole review.

(g) Notice of the release of a juvenile 90 days before the date of the juvenile's discharge from prison, unless the notice has been otherwise provided under this article.

(h) Notice of a public hearing under section 44 of 1953 PA 232, MCL 791.244, regarding a reprieve, commutation, or pardon of the juvenile's sentence by the governor.

(i) Notice that a reprieve, commutation, or pardon has been granted.

(j) Notice that a juvenile has had his or her name legally changed while on parole or within 2 years after release from parole.

(5) A victim's address and telephone number maintained by a sheriff or the department of corrections upon a request for notice under subsection (4) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) As provided in subsection (7) or (8), a victim who requests notice of the escape and the prosecuting attorney who filed the petition alleging the offense for which the juvenile is accused, detained, or under sentence shall be given immediate notice of the juvenile's escape. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(7) If the escape occurs before the sentence is executed or before the juvenile is delivered to the family independence agency, county juvenile agency, sheriff, or the department of corrections, the person in charge of the agency in charge of the juvenile's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(8) If the juvenile is confined under sentence, the notice of escape shall be given to the victim and the prosecuting attorney by the chief administrator of the place in which the juvenile is confined.

(9) Upon the victim's request, the prosecuting attorney shall give the victim notice of a review hearing conducted under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18. The victim has the right to make a statement at the hearing or submit a written statement for use at the hearing, or both.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.798a Notification by court.**

Sec. 48a. The court may perform the notification functions delegated to the prosecuting attorney under this article if both of the following circumstances exist:

(a) The prosecuting attorney allows the court to perform those functions pursuant to a written agreement.

(b) The court performed those functions before the effective date of the amendatory act that added this section.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.799 Providing victim with certified copy of order of adjudicative hearing.**

Sec. 49. If requested, a victim shall be provided with a certified copy of the order of an adjudicative hearing for purposes of obtaining relief pursuant to section 2913 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2913 of the Michigan Compiled Laws.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.800 Cause of action for money damages against state or local government not created.**

Sec. 50. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, or a municipality or any of their agencies, instrumentalities, or employees.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.801 Effect of failure to provide right, privilege, or notice to victim.**

Sec. 51. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the juvenile to seek to have any proceeding set aside.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.802 Effective date of article; applicability.**

Sec. 52. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to offenses committed on or after June 1, 1988.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

### **ARTICLE 3**

#### **780.811 Definitions; physical or emotional inability of victim to exercise privileges and rights; ineligibility to exercise privileges and rights.**

Sec. 61. (1) Except as otherwise defined in this article, as used in this article:

(a) "Serious misdemeanor" means 1 or more of the following:

(i) A violation of section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, assault and battery, including domestic violence.

(ii) A violation of section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a, assault; infliction of serious injury, including aggravated domestic violence.

(iii) A violation of section 115 of the Michigan penal code, 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

(iv) A violation of section 136b(6) of the Michigan penal code, 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

(v) A violation of section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145, contributing to the neglect or delinquency of a minor.

(vi) A misdemeanor violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, using the internet or a computer to make a prohibited communication.

(vii) A violation of section 233 of the Michigan penal code, 1931 PA 238, MCL 750.233, intentionally aiming a firearm without malice.

(viii) A violation of section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234, discharge of a firearm intentionally aimed at a person.

(ix) A violation of section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235, discharge of an intentionally aimed firearm resulting in injury.

(x) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(xi) A violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, stalking.

(xii) A violation of section 601b(2) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b, injuring a worker in a work zone.

(xiii) A violation of section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal injury accident.

(xiv) A violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(xv) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in physical injury or death to any individual.

(xvi) A violation of section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

(xvii) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (i) to (xvi).

(xviii) A violation charged as a crime or serious misdemeanor enumerated in subparagraphs (i) to (xvii) but subsequently reduced to or pleaded to as a misdemeanor. As used in this subparagraph, "crime" means that term as defined in section 2.

(b) "Defendant" means a person charged with or convicted of having committed a serious misdemeanor against a victim.

(c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of a sentence by the court.

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(f) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim" means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a serious misdemeanor, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following individuals other than the defendant if the victim is deceased:

(A) The spouse of the deceased victim.

(B) A child of the deceased victim if the child is 18 years of age or older and sub-subparagraph (A) does not apply.

(C) A parent of a deceased victim if sub-subparagraphs (A) and (B) do not apply.

(D) The guardian or custodian of a child of a deceased victim if the child is less than 18 years of age and sub-subparagraphs (A) to (C) do not apply.

(E) A sibling of the deceased victim if sub-subparagraphs (A) to (D) do not apply.

(F) A grandparent of the deceased victim if sub-subparagraphs (A) to (E) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process if he or she is not the defendant and is not incarcerated.

(2) If a victim as defined in subsection (1)(g)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse, child 18 years of age or older, parent, sibling, or grandparent or any other person 18 years of age or older who is neither the defendant nor incarcerated to act in his or her place while the physical or emotional disability continues. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a serious misdemeanor, a crime as defined in section 2, or an offense as defined in section 31 arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims under this article.

(4) An individual who is incarcerated is not eligible to exercise the privileges and rights established for victims under this article except that he or she may submit a written statement to the court for consideration at sentencing.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 82, Imd. Eff. Feb. 27, 1996;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

**Compiler's note:** In subparagraph (1)(a)(vii), the reference to "1931 PA 238" should evidently read "1931 PA 328."

#### **780.811a Statement of property damage, physical injury, or death.**

Sec. 61a. A law enforcement officer or prosecuting attorney who files with the court a complaint, appearance ticket, traffic citation, or other charging instrument regarding a serious misdemeanor described in section 61(1)(a)(xv), (xvi), or (xvii), or a local ordinance substantially corresponding to a serious misdemeanor described in section 61(1)(a)(xv), (xvi), or (xvii), shall place a statement on the complaint, appearance ticket, traffic citation, or other charging instrument that the offense resulted in damage to another individual's property or physical injury or death to another individual.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.811b Duty to provide notice to victim; furnishing information or records.**

Sec. 61b. The duty under this chapter and under section 24 of article I of the state constitution of 1963 of a court, the department of corrections, the department of human services, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. In performing a duty under this chapter or under section 24 of

article I of the state constitution of 1963, the court, department of corrections, department of human services, county sheriff, or prosecuting attorney may furnish information or records to the victim that would otherwise be closed to public inspection, including information or records described in section 14 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.14.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.812 Separate written statement.**

Sec. 62. A law enforcement officer investigating a serious misdemeanor involving a victim shall include with the complaint, appearance ticket, or traffic citation filed with the court a separate written statement including the name, address, and phone number of each victim. This separate statement shall not be a matter of public record.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

#### **780.813 Information to be given victim of serious misdemeanor.**

Sec. 63. (1) Within 24 hours after the initial contact between the victim of a reported serious misdemeanor and the law enforcement agency having the responsibility for investigating that serious misdemeanor, that agency shall give to the victim the following information in writing:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statements:

"If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them."

"If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case.".

(2) If the case against the defendant is brought under a local ordinance, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim the name and business address of the local prosecuting attorney for the political subdivision responsible for prosecuting the case along with the following statement:

"The defendant in your case will be prosecuted under a local ordinance, rather than a state statute. Nonetheless, you have all the rights and privileges afforded to victims under the state constitution and the state crime victim's rights act.".

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.813a Revocation of bond or personal recognizance.**

Sec. 63a. Based upon any credible evidence of acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.814 Return of property to victim; exceptions.**

Sec. 64. (1) The law enforcement agency having responsibility for investigating a reported serious misdemeanor shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the serious misdemeanor and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

#### **780.814a Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.**

Sec. 64a. (1) To facilitate compliance with 15 USC 1681g, a bona fide victim of identity theft is entitled to file a police report with a law enforcement agency in a jurisdiction where the alleged violation of identity theft may be prosecuted as provided under section 10c of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a copy of that report from that law enforcement agency.

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(2) As used in this section, "identity theft" means that term as defined in section 3 of the identity theft protection act.

**History:** Add. 2004, Act 456, Eff. Mar. 1, 2004.

**780.815 Victim to be given notice of availability of pretrial release, phone number of sheriff, and notice of right to contact sheriff.**

Sec. 65. Not later than 72 hours after the arrest of the defendant for a serious misdemeanor, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody. The law enforcement agency having responsibility for investigating the crime shall promptly notify the victim of the arrest or pretrial release of the defendant, or both, if the victim requests or has requested that information. If the defendant is released from custody by the sheriff, the sheriff shall notify the law enforcement agency having responsibility for investigating the crime.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

**780.816 Notice to prosecuting attorney and to victim; consultation by victim with prosecuting attorney; dismissal of case; keeping prosecuting attorney and sheriff informed of victim's current address and telephone number.**

Sec. 66. (1) If a plea of guilty or nolo contendere is accepted by the court at the time of the arraignment of the defendant for a serious misdemeanor, the court shall notify the prosecuting attorney of the plea and the date of sentencing within 48 hours after the arraignment. If no guilty or nolo contendere plea is accepted at the arraignment and further proceedings will be scheduled, the court shall so notify the prosecuting attorney within 48 hours after the arraignment. A notice to the prosecuting attorney under this subsection shall be on a separate form and shall include the name, address, and telephone number of the victim. The notice shall not be a matter of public record. Within 48 hours after receiving this notice, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in the processing of a misdemeanor case, including pretrial conferences.

(b) A specific list of the rights and procedures under this article.

(c) A convenient means for the victim to notify the prosecuting attorney that the victim chooses to exercise his or her rights under this article.

(d) Details and eligibility requirements for compensation from the crime victim services commission under 1976 PA 223, MCL 18.351 to 18.368.

(e) Suggested procedures if the victim is subjected to threats or intimidation.

(f) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the defendant has not already entered a plea of guilty or nolo contendere at the arraignment, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the serious misdemeanor, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion.

(4) If the case against the defendant is dismissed at any time, the prosecuting attorney shall notify the victim of the dismissal within 48 hours.

(5) A victim who receives a notice under subsection (1) or (2) and who chooses to receive any notice or exercise any right under this article shall keep the following persons informed of the victim's current address and telephone number:

(a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.

(b) The sheriff, if the defendant is imprisoned for more than 92 days.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.817 Separate waiting area for victim; safeguards.**

Sec. 67. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.



**History:** Add. 1988, Act 21, Eff. June 1, 1988.

**780.818 Testimony of victim or other witness; consent of victim; exemption from disclosure; exception.**

Sec. 68. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) Pursuant to section 24 of article I of the state constitution of 1963, guaranteeing to crime victims the right to be treated with respect for their dignity and privacy, all of the following information and visual representations of a victim are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The home address, home telephone number, work address, and work telephone number of the victim.

(b) A picture, photograph, drawing, or other visual representation, including any film, videotape, or digitally stored image of the victim.

(3) Subsection (2) shall not preclude the release of information to a victim advocacy organization or agency for the purpose of providing victim services.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.819 Expedited trial.**

Sec. 69. An expedited trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be a child.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

**780.820 Conference prior to trial.**

Sec. 70. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the trial of the defendant.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

**780.821 Right of victim to be present at trial; sequestering of victim.**

Sec. 71. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies. The victim shall not be sequestered after he or she first testifies.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.822 Discharge or discipline of victim or victim representative by employer or employer's agent as misdemeanor; penalty; "victim representative" defined.**

Sec. 72. (1) An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(2) An employer or an employer's agent who disciplines or discharges a victim representative from employment, causes a victim representative to be disciplined or discharged from employment, or threatens to discipline or discharge a victim representative from employment because that victim representative attends or desires to attend court to be present during the testimony of the victim, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(3) As used in this section, "victim representative" means any of the following:

(a) A guardian or custodian of a child of a deceased victim if the child is less than 18 years of age.

(b) A parent, guardian, or custodian of a victim of an assaultive serious misdemeanor if the victim of the assaultive serious misdemeanor is less than 18 years of age.

(c) A person who has been designated under section 61(2) to act in place of a victim of an assaultive serious misdemeanor during the duration of the victim's physical or emotional disability.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994.



**780.823 Additional notice to victim; means; contents of impact statement.**

Sec. 73. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

- (a) The defendant's conviction.
  - (b) The offenses for which the defendant was convicted.
  - (c) If a presentence investigation report is to be prepared, the victim's right to make a written or oral impact statement for use in the preparation of the presentence investigation report concerning the defendant.
  - (d) The address and telephone number of the probation office which is to prepare the presentence investigation report.
  - (e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.
  - (f) The victim's right to make an impact statement at sentencing.
  - (g) The time and place of the sentencing proceeding.
- (2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.
- (3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:
- (a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.
  - (b) An explanation of the extent of any economic loss or property damage suffered by the victim.
  - (c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.
  - (d) The victim's recommendation for an appropriate sentence.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

**780.824 Preparation of presentence investigation report; written or oral impact statement; inclusion of statement in presentence investigation report.**

Sec. 74. If a presentence investigation report concerning the defendant is prepared, the victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing the report pursuant to section 14 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.825 Notice of sentencing; impact statement.**

Sec. 75. If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days prior to the sentencing. The victim has the right to submit a written impact statement and has the right to appear and make an oral impact statement at the sentencing of the defendant. If the victim is physically or emotionally unable to make the oral impact statement, the victim may designate any other person 18 years of age or older who is neither the defendant nor incarcerated to make the statement on his or her behalf. The other person need not be an attorney. The court shall consider the victim's statement in imposing sentence on the defendant.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

**780.826 Definitions; restitution by defendant convicted of misdemeanor.**

Sec. 76. (1) As used in this section only:

- (a) "Misdemeanor" means a violation of a law of this state or a local ordinance that is punishable by imprisonment for not more than 1 year or a fine that is not a civil fine, but that is not a felony.
- (b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a misdemeanor. As used in subsections (2), (3), (6), (8), (9), and (13) only, victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of a misdemeanor.

(2) Except as provided in subsection (8), when sentencing a defendant convicted of a misdemeanor, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. For an offense that is resolved by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this

section.

(3) If a misdemeanor results in damage to or loss or destruction of property of a victim of the misdemeanor or results in the seizure or impoundment of property of a victim of the misdemeanor, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(c) Pay the costs of the seizure or impoundment, or both.

(4) If a misdemeanor results in physical or psychological injury to a victim, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the reasonably determined cost of medical and related professional services and devices actually incurred and reasonably expected to be incurred relating to physical and psychological care.

(b) Pay an amount equal to the reasonably determined cost of physical and occupational therapy and rehabilitation actually incurred and reasonably expected to be incurred.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the misdemeanor.

(d) Pay an amount equal to the reasonably determined cost of psychological and medical treatment for members of the victim's family actually incurred and reasonably expected to be incurred as a result of the misdemeanor.

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the misdemeanor or, if homemaking or child care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the misdemeanor for that homemaking and child care, based on the rates in the area for comparable services.

(f) Pay an amount equal to the cost of actual funeral and related services.

(g) If the deceased victim could be claimed as a dependent by his or her parent or guardian on the parent's or guardian's federal, state, or local income tax returns, pay an amount equal to the loss of the tax deduction or tax credit. The amount of reimbursement shall be estimated for each year the victim could reasonably be claimed as a dependent.

(h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.

(5) If a crime resulting in bodily injury also results in the death of a victim or serious impairment of a body function of a victim, the court may order up to 3 times the amount of restitution otherwise allowed under this section. As used in this subsection, "serious impairment of a body function of a victim" includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand or foot or use of a hand or foot.

(c) Loss of an eye or use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of a body organ.

(6) If the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money.

(7) If the victim is deceased, the court shall order that the restitution be made to the victim's estate.

(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the misdemeanor. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an

order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action.

(9) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victim services commission made after an order of restitution under this section.

(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.

(11) If the defendant is placed on probation or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation or sentence. The court may revoke probation or impose imprisonment under the conditional sentence if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or impose imprisonment, the court shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(12) Subject to subsection (15), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive restitution in the same manner as a judgment in a civil action or a lien.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or otherwise for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(15) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires. If the probation officer determines at any review that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

(16) If the court determines that a defendant who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the court determines that the defendant is remanded to the department's jurisdiction.

(17) The court shall not impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing an order of restitution.

(18) If a person or entity entitled to restitution under this section cannot be located, refuses to claim the restitution within 2 years after the date on which he or she could have claimed the restitution, or refuses to accept the restitution, the restitution to which that person or entity is entitled shall be deposited in the crime

victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a person or entity entitled to that restitution may claim that restitution any time by applying to the court that originally ordered and collected it. The court shall notify the crime victim services commission of the application and the commission shall approve a reduction in the court's revenue transmittal to the crime victim's rights fund equal to the restitution owed to the person or entity. The court shall use the reduction to reimburse that restitution to the person or entity.

(19) The court may amend an order of restitution entered under this section on a motion by the prosecuting attorney, the victim, or the defendant based upon new information related to the injury, damages, or loss for which the restitution was ordered.

(20) A court that receives notice that a defendant who has an obligation to pay restitution under this section has declared bankruptcy shall forward a copy of that notice to the prosecuting attorney. The prosecuting attorney shall forward the notice to the victim at the victim's last known address.

(21) If the victim is a minor, the order of restitution shall require the defendant pay to a parent of the victim an amount that is determined to be reasonable for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:

- (a) Homemaking and child care expenses.
- (b) Income loss not ordered to be paid under subsection (4)(h).
- (c) Mileage.
- (d) Lodging or housing.
- (e) Meals.
- (f) Any other cost incurred in exercising the rights of the victim or a parent under this act.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 121, Eff. May 1, 1996;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 1998, Act 232, Imd. Eff. July 3, 1998;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.826a Allocation of payments.**

Sec. 76a. (1) If a person is subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments ordered to be paid in that proceeding shall be allocated as provided in this section. If a person is subject to fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in more than 1 proceeding in a court and if a person making a payment on the fines, costs, restitution, assessments, probation or parole supervision fees, or other payments does not indicate the proceeding for which the payment is made, the court shall first apply the money paid to a proceeding in which there is unpaid restitution to be allocated as provided in this section.

(2) Except as otherwise provided in this subsection, if a person is subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of each payment collected by the court from that person shall be applied to payment of victim payments, and the balance shall be applied to payment of fines, costs, supervision fees, and other assessments or payments. If a person making a payment indicates that the payment is to be applied to victim payments, or if the payment is received as a result of a wage assignment under section 76 or from the sheriff under section 80a, the payment shall first be applied to victim payments. If any fines, costs, supervision fees, or other assessments or payments remain unpaid after all of the victim payments have been paid, any additional money collected shall be applied to payment of those fines, costs, supervision fees, or other assessments or payments. If any victim payments remain unpaid after all of the fines, costs, supervision fees, or other assessments or payments have been paid, any additional money collected shall be applied to payment of those victim payments.

(3) In cases involving prosecutions for violations of state law, money allocated under subsection (2) for payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of other costs.

(c) Payment of fines.

(d) Payment of probation or parole supervision fees.

(e) Payment of assessments and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss.

(4) In cases involving prosecutions for violations of local ordinances, money allocated under subsection (2)

for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of fines and other costs.

(c) Payment of assessments and other payments.

(5) As used in this section, "victim payment" means restitution ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss; or an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

**History:** Add. 2000, Act 503, Eff. June 1, 2001;—Am. 2003, Act 98, Eff. Oct. 1, 2003;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.827 Notice of final disposition of case.**

Sec. 77. Upon the request of a victim, the prosecuting attorney shall, within 30 days after the final disposition of the case, notify the victim in writing of the final disposition of the case.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

#### **780.827a Notice to victim of defendant's application to have conviction for serious misdemeanor set aside.**

Sec. 77a. If a defendant applies to have a conviction for a serious misdemeanor set aside under Act No. 213 of the Public Acts of 1965, being sections 780.621 to 780.624 of the Michigan Compiled Laws, and if the name of the victim is known by the prosecuting attorney, the prosecuting attorney shall give to the victim of the serious misdemeanor written notice of the application and forward a copy of the application to the victim. The notice shall be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under Act No. 213 of the Public Acts of 1965 concerning that conviction and make a written or oral statement.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.827b Early termination of probation; notice to victim.**

Sec. 77b. If a defendant is sentenced to probation with a condition for the protection of the victim and if requested by the victim, the court shall notify the victim by mail if the court orders that the probation be terminated earlier than previously ordered.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.828 Additional notice to victim; further proceedings or new trial.**

Sec. 78. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the defendant filed an appeal of his or her conviction or sentence or the prosecuting attorney filed an appeal.

(b) Whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the defendant has been ordered released on bail or other recognizance pending disposition of the appeal, the prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(c) The time and place of any appellate court oral arguments and any changes in the time or place of those arguments.

(d) The result of the appeal. If the conviction is ordered reversed, the sentence is vacated, the case is remanded for a new trial, or the prosecuting attorney's appeal is denied, and if the prosecuting attorney has filed the appropriate notice with the appellate court, the appellate court shall expedite delivery of the relevant document to the prosecuting attorney's office by any means reasonably calculated to give the prosecuting attorney prompt notice. The prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(2) If the prosecuting attorney is not successful in notifying the victim of an event described in subsection (1) within the period set forth in that subsection, the prosecuting attorney shall notify the victim of that event as soon as possible by any means reasonably calculated to give the victim prompt actual notice.

(3) The prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(4) If the case is returned to the trial court for further proceedings or a new trial, the victim has the same



rights as previously requested during the proceedings that led to the appeal.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.828a Information to be mailed to victim of serious misdemeanor; form to receive notices.**

Sec. 78a. (1) Upon the written request of a victim of a serious misdemeanor, the sheriff shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff for commission of that serious misdemeanor:

(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice that a prisoner has had his or her name legally changed while imprisoned in the county jail or within 2 years of release from the county jail.

(c) Notice that the prisoner has been placed on day parole or work release.

(2) When a defendant is sentenced to probation or a term of imprisonment, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under this section or section 77b or 78b. The form shall include the address of the court, prosecuting attorney, or sheriff's department, as applicable, to which the form may be sent.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.828b Notice of escape.**

Sec. 78b. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the serious misdemeanor for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a serious misdemeanor against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the sheriff, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(3) If the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.829 Notice of release of defendant; written request.**

Sec. 79. (1) Upon the written request of the victim, the sheriff shall notify the victim of the earliest possible release date of the defendant if the defendant is sentenced to more than 92 days' imprisonment.

(2) The victim's written request for notice under this section shall include the victim's address.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

#### **780.830 Exemption of victim's address and telephone number from disclosure.**

Sec. 80. A victim's address and telephone number maintained by a court or a sheriff pursuant to this article is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

#### **780.830a Deductions and payments.**

Sec. 80a. (1) If a defendant who has been sentenced to jail is ordered to pay restitution under section 76, and if the defendant receives more than \$50.00 in a month, the sheriff may deduct 50% of the amount over \$50.00 received by the defendant for payment of the restitution, and 5% of the amount over \$50.00 received by the defendant to be retained by the sheriff as an administrative fee. The sheriff shall promptly send the money deducted for restitution to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the defendant is released to probation or discharged on the maximum sentence.

(2) The sheriff shall notify the defendant and the court in writing of all deductions and payments made under this section. The requirements of this section remain in effect until all of the restitution has been paid. The sheriff shall not enter into any agreement with a defendant that modifies the requirements of this section. An agreement in violation of this subsection is void.



**History:** Add. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

**780.831 Profit from sale of recollections of thoughts and feelings of person convicted; misdemeanor; forfeiture; escrow account; distribution of proceeds.**

Sec. 81. (1) A person convicted of a serious misdemeanor shall not derive any profit from the sale of any of the following until the victim receives any restitution or compensation ordered for him or her against the defendant, expenses of incarceration are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

- (a) The person's recollections of or thoughts or feelings about the offense committed by the person.
- (b) Memorabilia related to the offense committed by the person.
- (c) The person's property if its value has been enhanced or increased by the person's notoriety.

(2) Upon the conviction of a defendant for a serious misdemeanor involving a victim, and after notice to all interested parties, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that the defendant forfeit all or any part of proceeds received or to be received by the defendant or the defendant's representatives or assignees from any of the following:

- (a) Contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment.
- (b) The sale of memorabilia relating to the crime.
- (c) The sale of property of the defendant, the value of which has been enhanced or increased by the defendant's notoriety arising from the crime.

(3) Proceeds ordered forfeited under subsection (2) shall be held in an escrow account for a period of not more than 5 years.

(4) During the existence of an escrow account created under subsection (3), proceeds in the account shall be distributed in the following priority to satisfy the following:

- (a) An order of restitution entered under section 76.
- (b) Any civil judgment in favor of the victim against the defendant.
- (c) Any reimbursement ordered under the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93, or ordered under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.
- (d) Fines, costs, and other assessments ordered against the defendant.

(5) A balance remaining in an escrow account created under subsection (3) at the end of the escrow period shall be paid to the crime victim's rights fund created in section 4 of 1989 PA 196, MCL 780.904.

**History:** Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

**780.832 No cause of action against state or local government.**

Sec. 82. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, instrumentalities, or employees.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

**780.833 Failure to provide right, privilege, or notice to victim.**

Sec. 83. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

**780.834 Effective date of article; applicability.**

Sec. 84. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to misdemeanors committed on or after June 1, 1988.

**History:** Add. 1988, Act 21, Eff. June 1, 1988.

## **CRIME VICTIMS RIGHTS SERVICES**

### **Act 196 of 1989**

AN ACT to abolish the criminal assessments commission; to prescribe certain duties of the crime victim services commission; to create the crime victim's rights fund; to provide for expenditures from the fund; to provide for assessments against criminal defendants and certain juvenile offenders; to provide for payment of crime victim's rights services; and to prescribe the powers and duties of certain state and local agencies and departments.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

*The People of the State of Michigan enact:*

#### **780.901 Definitions.**

Sec. 1. As used in this act:

(a) "Commission" means the crime victim services commission described in section 2 of Act No. 223 of the Public Acts of 1976, being section 18.352 of the Michigan Compiled Laws.

(b) "Crime victim's rights services" means services required to implement fully the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws.

(c) "Department" means the department of management and budget of this state.

(d) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(e) "Fund" means the crime victim's rights fund created under section 4.

(f) "Juvenile offense" means an offense committed by a juvenile under the jurisdiction of the juvenile division of the probate court or the family division of circuit court under section 2(a)(1) of chapter XIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, that if committed by an adult would be a felony, serious misdemeanor, or a specified misdemeanor if the juvenile's case is not designated as a case in which the juvenile is to be tried in the same manner as an adult.

(g) "Serious misdemeanor" means that term as defined in section 61 of Act No. 87 of the Public Acts of 1985, being section 780.811 of the Michigan Compiled Laws.

(h) "Specified misdemeanor" means a misdemeanor violation of any of the following:

(i) Section 602a, 625(1) or (3), 626, or 904 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.602a, 257.625, 257.626, and 257.904 of the Michigan Compiled Laws.

(ii) Section 82127(1) or (3) of part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.82127 of the Michigan Compiled Laws.

(iii) Section 81134(1) or (2) or 81135 of part 811 (off-road recreation vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81134 and 324.81135 of the Michigan Compiled Laws.

(iv) Section 80176(1) or (3) of part 801 (marine safety) of Act No. 451 of the Public Acts of 1994, being section 324.80176 of the Michigan Compiled Laws.

(v) Section 185 of the aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being section 259.185 of the Michigan Compiled Laws.

(vi) Part 74 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7461 and 333.17766a of the Michigan Compiled Laws.

(vii) Section 33 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33 of the Michigan Compiled Laws.

(viii) Section 353 or 355 of the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.353 and 462.355 of the Michigan Compiled Laws.

(ix) Section 174, 218, 356, 356d, 359, 362, 362a, 377a, 380, 479a, 535, or 540e of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.174, 750.218, 750.356, 750.356d, 750.359, 750.362, 750.362a, 750.377a, 750.380, 750.479a, 750.535, and 750.540e of the Michigan Compiled Laws.

(x) A local ordinance substantially corresponding to a law listed in subparagraphs (i) to (ix).

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 26, Eff. May 1, 1996;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

#### **780.902 Criminal assessments commission; transfer of powers, duties, and jurisdiction to crime victim services commission.**

Sec. 2. The criminal assessments commission formerly created under this act is abolished. Its powers, duties, and jurisdiction are transferred to the crime victim services commission.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

#### **780.903 Crime victim services commission; duties.**

Sec. 3. The commission shall do all of the following:

- (a) Investigate and determine the amount of revenue needed to pay for crime victim's rights services.
- (b) Investigate and determine an appropriate assessment amount to be imposed against convicted criminal defendants and juveniles for whom the probate court or the family division of circuit court enters orders of disposition for juvenile offenses to pay for crime victim's rights services.
- (c) By December 31 of each year, report to the governor, the secretary of the senate, the clerk of the house of representatives, and the department the commission's findings and recommendations under this section.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

#### **780.904 Crime victim's rights fund.**

Sec. 4. (1) The crime victim's rights fund is created as a separate fund in the state treasury. The state treasurer shall credit to the fund all amounts received under this act and as provided by law. The state treasurer shall invest fund money in the same manner as surplus funds are invested under section 3 of Act No. 105 of the Public Acts of 1855, being section 21.143 of the Michigan Compiled Laws. Earnings from the fund shall be credited to the fund.

(2) The fund shall be expended only as provided in this act. Amounts in the fund in excess of the necessary revenue determined by the commission under section 3(a) may be used for crime victims' compensation under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

#### **780.905 Payment and use of assessments; order; duties of clerk of court.**

Sec. 5. (1) The court shall order each person charged with an offense that is a felony, a serious misdemeanor, or a specified misdemeanor, that is resolved by conviction, by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred entry of judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, to pay an assessment as follows:

- (a) If the offense is a felony, \$60.00.
- (b) If the offense is a serious misdemeanor or a specified misdemeanor, \$50.00.

(2) The court shall order a defendant to pay only 1 assessment under subsection (1) per criminal case. Payment of the assessment shall be a condition of a probation order entered under chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1 to 771.14a, or a parole order entered under section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

(3) The court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay an assessment of \$20.00. The court shall order a juvenile to pay only 1 assessment under this subsection per case.

(4) Except as otherwise provided under this act, an assessment under this section shall be used to pay for crime victim's rights services.

(5) If a defendant ordered to pay an assessment under this act posted a cash bond or bail deposit in connection with the case, the court shall order the assessment collected out of that bond or deposit as provided in section 15 of chapter V and section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 765.15 and 775.22, or section 6 or 7 of 1966 PA 257, MCL 780.66 and 780.67.

(6) If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal or juvenile proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22, or section 29 of chapter XIII of the probate code of 1939, 1939 PA 288, MCL 712A.29.

(7) The clerk of the court shall do both of the following on the last day of each month:

(a) Transmit 90% of the assessments received under this section to the department of treasury with a written report of those assessments as the department of treasury prescribes. To provide funding for costs incurred under this section and for providing crime victim's rights services, the court may retain 10% of the assessments received under this section and transmit that amount to the court's funding unit.

(b) Transmit a written report to the department on a form the department prescribes containing all of the following information for that month:

- (i) The name of the court.
- (ii) The total number of criminal convictions or dispositions for offenses that if committed by an adult would be criminal obtained in that court.
- (iii) The total number of defendants or juveniles against whom an assessment was imposed by that court.
- (iv) The total amount of assessments imposed by that court.
- (v) The total amount of assessments collected by that court.
- (vi) Other information required by the department.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 344, Imd. Eff. June 27, 1996;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1996;—Am. 2005, Act 315, Eff. Jan. 1, 2006.

#### **780.906 Service and funding levels; disbursements; adjustments; application for compensation for cost of services; administrative costs.**

Sec. 6. (1) The department shall establish service and funding levels for the courts, departments, and local agencies that receive money under this act.

(2) A disbursement to cover the funding level established by the department shall be annually distributed to eligible departments and local agencies.

(3) If the amount retained by the clerk of a court pursuant to section 5(7) is less than the service and funding level for the court established under subsection (1), a disbursement to cover the difference between the amount retained and the funding level established by the department shall be annually distributed to an eligible court.

(4) A department or local agency that provides crime victim's rights services may apply quarterly to the department for an adjustment to the funding level established pursuant to subsection (1). The application shall be on a form provided by the department. The department shall disburse an adjustment to the funding level to an eligible department or local agency.

(5) A court that provides crime victim's rights services may apply annually to the department for compensation for the cost of those services to that court in excess of the greater of the amount retained under section 5(7) or the funding level for the court established pursuant to subsection (1). The application shall be on a form provided by the department.

(6) The department shall compensate units of government for the actual and reasonable administrative costs incurred by those units of government under this act.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 2005, Act 315, Eff. Jan. 1, 2006.

#### **780.907 Disbursements for crime victim's rights services; priority; financial incentive programs; administrative costs.**

Sec. 7. (1) The department shall direct and authorize the state treasurer in writing to disburse money from the fund to pay for crime victim's rights services as required under this act. The department may direct and authorize the state treasurer in writing to disburse money from the fund to pay for crime victims' compensation as provided in section 4(2).

(2) The department shall make the implementation of crime victim's rights a priority, and may develop financial incentive programs to enhance the delivery of crime victim's rights services under this act.

(3) The department shall make disbursements under this act to the treasurer of a unit of government, and the treasurer shall transmit that money to courts, departments, and local agencies within that unit of government as the department directs. The department may withhold a distribution to a unit of government until the treasurer of that unit of government has distributed all previous disbursements made by the department to courts, departments, and local agencies within that unit of government.

(4) The department shall receive disbursements for its administrative costs as authorized by appropriation.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994.

#### **780.908 Using distribution to enhance and increase crime victim's rights services.**

Sec. 8. A court, department, or local agency that receives a distribution under this act shall use that distribution to enhance and increase crime victim's rights services and not to supplant local, federal, and other state funds that, in the absence of a distribution under this act, are available for providing crime victim's rights services or other services to crime victims.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994.

#### **780.909 Annual estimate of cost and revenue; notice to legislature; covering estimated shortfall.**

Sec. 9. The department shall annually estimate the cost of providing crime victim's rights services and the estimated revenue to be received by the crime victim's rights fund. If the estimated revenue is projected to be insufficient to cover the estimated costs of totally funding crime victim's rights services, the department shall notify the legislature and determine whether to request an appropriation or budget transfer to cover the estimated shortfall.

**History:** 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994.

#### **780.910 Rules.**

Sec. 10. The department may promulgate rules to implement this act.

**History:** 1989, Act 196, Eff. Oct. 30, 1989.

#### **780.911 Effective date.**

Sec. 11. This act shall take effect upon the expiration of 60 days after the date of its enactment.

**History:** 1989, Act 196, Eff. Oct. 30, 1989.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1997-9**

**780.921 Transfer of powers and duties of crime victim services commission from the department of management and budget to the department of community health by type II transfer.**

WHEREAS, Article V, Section 1 of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Act No. 223 of the Public of 1976, as amended, created the Crime Victims Compensation Board within the Department of Management and Budget; and

WHEREAS, Act No. 196 of 1989, as amended, created the Criminal Assessments Commission within the Department of Management and Budget; and

WHEREAS, Act No. 519 of 1996, being Sections 18.351 et seq. of the Michigan Compiled Laws, renamed the former Crime Victims Compensation Board as the Crime Victim Services Commission, which is the successor agency of the board in all respects and for all purposes; and

WHEREAS, Act No. 520 of 1996, being Sections 780.901 et seq. of the Michigan Compiled Laws, abolished the former Criminal Assessments Commission, and further transferred its powers, duties, and jurisdiction to the Crime Victim Services Commission; and

WHEREAS, management of the Crime Victim Services Commission will be enhanced with increased coordination of efforts, collaboration and communication with other criminal justice related agencies and divisions within the Department of Community Health; and

WHEREAS, the Crime Victim Services Commission is responsible for duties and functions closely related to the duties and functions of divisions within the Michigan Department of Community Health, including, but not limited to, the Office of Drug Control Policy and the Division of Violence, Injury and Surveillance; and

WHEREAS, the Department of Community Health has a role in determining the Medicaid eligibility of applicants, which is a prerequisite for processing a claim for reimbursement for necessary medical expenses under Act No. 519 of 1996 and its constitutional and statutory counterparts; and

WHEREAS, mental health services to children and families provided by the Department of Community Health will serve to assist the counseling needs of crime victims; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Crime Victim Services Commission set forth in Act No. 519 and Act No. 520 of the Public Acts of 1996, as amended, are hereby transferred from the Department of Management and Budget to the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Management and Budget shall immediately initiate coordination with the Director of the Department of Community Health to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, and other obligations to be resolved related to the Crime Victim Services Commission or its predecessor Commissions;

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to any entity for the activities, powers, duties, functions and responsibilities transferred to the Department of Community Health by this Order are hereby transferred to the Department of Community Health.

5. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling the financial transactions and records related to this Order and the state's financial management system for the remainder of the fiscal year.



6. All rules, orders, contracts, declaratory rulings, agreements and other actions relating to the functions transferred to the Department of Community Health by this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or rescinded.

7. Any suit, action or other proceeding lawfully commenced by, against or before the Crime Victim Service Commission, or its predecessors, the Crime Victims Compensation Board or the Criminal Assessments Commission, shall not abate by reason of the taking effect of this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days after filing.

**History:** 1997, E.R.O. No. 1997-9, Eff. Sept. 6, 1997.

**Compiler's note:** In the third paragraph of this section, the phrase "Act No. 223 of the Public of 1976" evidently should read "Act No. 223 of the Public Acts of 1976."

In the paragraph numbered "5.", the phrase "for the remainder of the fiscal year" evidently should read "for the remainder of the fiscal year."

**PRESUMPTION REGARDING SELF-DEFENSE**  
**Act 311 of 2006**

AN ACT to create a rebuttable presumption regarding the use of self-defense or the defense of others.

**History:** 2006, Act 311, Eff. Oct. 1, 2006.

*The People of the State of Michigan enact:*

**780.951 Individual using deadly force or force other than deadly force; presumption; definitions.**

Sec. 1. (1) Except as provided in subsection (2), it is a rebuttable presumption in a civil or criminal case that an individual who uses deadly force or force other than deadly force under section 2 of the self-defense act has an honest and reasonable belief that imminent death of, sexual assault of, or great bodily harm to himself or herself or another individual will occur if both of the following apply:

(a) The individual against whom deadly force or force other than deadly force is used is in the process of breaking and entering a dwelling or business premises or committing home invasion or has broken and entered a dwelling or business premises or committed home invasion and is still present in the dwelling or business premises, or is unlawfully attempting to remove another individual from a dwelling, business premises, or occupied vehicle against his or her will.

(b) The individual using deadly force or force other than deadly force honestly and reasonably believes that the individual is engaging in conduct described in subdivision (a).

(2) The presumption set forth in subsection (1) does not apply if any of the following circumstances exist:

(a) The individual against whom deadly force or force other than deadly force is used, including an owner, lessee, or titleholder, has the legal right to be in the dwelling, business premises, or vehicle and there is not an injunction for protection from domestic violence or a written pretrial supervision order, a probation order, or a parole order of no contact against that person.

(b) The individual removed or being removed from the dwelling, business premises, or occupied vehicle is a child or grandchild of, or is otherwise in the lawful custody of or under the lawful guardianship of, the individual against whom deadly force or force other than deadly force is used.

(c) The individual who uses deadly force or force other than deadly force is engaged in the commission of a crime or is using the dwelling, business premises, or occupied vehicle to further the commission of a crime.

(d) The individual against whom deadly force or force other than deadly force is used is a peace officer who has entered or is attempting to enter a dwelling, business premises, or vehicle in the performance of his or her official duties in accordance with applicable law.

(e) The individual against whom deadly force or force other than deadly force is used is the spouse or former spouse of the individual using deadly force or force other than deadly force, an individual with whom the individual using deadly force or other than deadly force has or had a dating relationship, an individual with whom the individual using deadly force or other than deadly force has had a child in common, or a resident or former resident of his or her household, and the individual using deadly force or other than deadly force has a prior history of domestic violence as the aggressor.

(3) As used in this section:

(a) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) "Business premises" means a building or other structure used for the transaction of business, including an appurtenant structure attached to that building or other structure.

(c) "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(d) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.

(e) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(f) "Peace officer" means any of the following:

(i) A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Peace officer does not include a person serving solely because he or she occupies any other office or position.

(ii) A law enforcement officer of a Michigan Indian tribal police force.

(iii) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(iv) A law enforcement officer of a multicounty metropolitan district.

(v) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

(vi) Until December 31, 2007, a law enforcement officer of a school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

(vii) A fire arson investigator from a fire department within a city with a population of not less than 750,000 who is sworn and fully empowered by the city chief of police.

(viii) A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

(ix) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(x) A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of that community college, college, or university to enforce state law and the rules and ordinances of that community college, college, or university.

(g) "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.

**History:** 2006, Act 311, Eff. Oct. 1, 2006.

**DEADLY FORCE**  
**Act 310 of 2006**

AN ACT to exempt an individual who uses deadly force or force other than deadly force from criminal prosecution under certain circumstances; to establish certain procedures; and to prescribe the duties of certain public officials.

**History:** 2006, Act 310, Eff. Oct. 1, 2006.

*The People of the State of Michigan enact:*

**780.961 Use of deadly force or force other than deadly force; establishing evidence that individual's actions not justified.**

Sec. 1. (1) An individual who uses deadly force or force other than deadly force in compliance with section 2 of the self-defense act and who has not or is not engaged in the commission of a crime at the time he or she uses that deadly force or force other than deadly force commits no crime in using that deadly force or force other than deadly force.

(2) If a prosecutor believes that an individual used deadly force or force other than deadly force that is unjustified under section 2 of the self-defense act, the prosecutor may charge the individual with a crime arising from that use of deadly force or force other than deadly force and shall present evidence to the judge or magistrate at the time of warrant issuance, at the time of any preliminary examination, and at the time of any trial establishing that the individual's actions were not justified under section 2 of the self-defense act.

**History:** 2006, Act 310, Eff. Oct. 1, 2006.

**SELF-DEFENSE ACT**  
**Act 309 of 2006**

AN ACT to clarify the rights and duties of self-defense and the defense of others.

**History:** 2006, Act 309, Eff. Oct. 1, 2006.

*The People of the State of Michigan enact:*

**780.971 Short title.**

Sec. 1. This act shall be known and may be cited as the "self-defense act".

**History:** 2006, Act 309, Eff. Oct. 1, 2006.

**780.972 Use of deadly force by individual not engaged in commission of crime; conditions.**

Sec. 2. (1) An individual who has not or is not engaged in the commission of a crime at the time he or she uses deadly force may use deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if either of the following applies:

(a) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death of or imminent great bodily harm to himself or herself or to another individual.

(b) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent sexual assault of himself or herself or of another individual.

(2) An individual who has not or is not engaged in the commission of a crime at the time he or she uses force other than deadly force may use force other than deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if he or she honestly and reasonably believes that the use of that force is necessary to defend himself or herself or another individual from the imminent unlawful use of force by another individual.

**History:** 2006, Act 309, Eff. Oct. 1, 2006.

**780.973 Duty to retreat; effect of act on common law.**

Sec. 3. Except as provided in section 2, this act does not modify the common law of this state in existence on October 1, 2006 regarding the duty to retreat before using deadly force or force other than deadly force.

**History:** 2006, Act 309, Eff. Oct. 1, 2006.

**780.974 Right to use deadly force; effect of act on common law.**

Sec. 4. This act does not diminish an individual's right to use deadly force or force other than deadly force in self-defense or defense of another individual as provided by the common law of this state in existence on October 1, 2006.

**History:** 2006, Act 309, Eff. Oct. 1, 2006.